
DECOMMISSIONING AND/OR LONG-TERM STEWARDSHIP
DRAFT ENVIRONMENTAL IMPACT STATEMENT
PUBLIC SCOPING MEETING
ASHFORD OFFICE COMPLEX
9030 ROUTE 219
ASHFORD, NEW YORK
APRIL 9, 2003 7 P.M.

REPORTED BY: DOREEN M. SHARICK, Court Reporter
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SPEAKERS:

JOHN CHAMBERLAIN,
Communications Department,
West Valley Demonstration Project.

DANIEL W. SULLIVAN,
DOE Document Manager,
West Valley Demonstration Project.

PAUL BEMBIA, NYSERDA.

JAMES LIEBERMAN, ESQ., FOR THE NRC.

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2 MR. CHAMBERLAIN: Okay. As I
3 said, I'm John Chamberlain. I work in the
4 Communications Department at the West Valley
5 Project. And I'll be acting as the moderator
6 for this meeting that is being held by the
7 Department of Energy and the New York State
8 Energy Research and Development Authority.

9 Throughout this evening, you will
10 hear a number of acronyms used for various
11 agencies, facilities, or regulations or we
12 hope you won't hear them, but if you do,
13 please ask. Note them down and when we have a
14 break, we will be happy to explain them.

15 On March 13th, 2003, a notice was
16 published in the Federal Register of
17 Department of Energy and NYSERDA's intent to
18 prepare an Environmental Impact Statement, or
19 EIS, for Decommissioning and/or Long-Term
20 Stewardship at the West Valley Demonstration
21 Project and the Western New York Nuclear
22 Service Center. This study will revise the
23 draft EIS released in 1996 for public review
24 and comment for Completion of the West Valley
25 Demonstration Project and Closure or Long-Term

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2 Management of Facilities at the Western New
3 York Nuclear Service Center.

4 The DOE decided in 2001 to rescope
5 the 1996 draft EIS into two studies. A new
6 EIS developed by DOE focused on near-term
7 management and off-site shipping of WVDP
8 radioactive wastes, and a continuation of the
9 joint DOE and NYSERDA Environmental Impact
10 Statement to focus on the long-term issues and
11 alternatives for WVDP completion and site
12 closure or stewardship. A public meeting was
13 held at that time to receive comments on the
14 rescoping approach and on the content and
15 scope of the waste management EIS.

16 The purpose of this meeting tonight
17 is to receive comments on the scope of work to
18 be considered in the revision of the 1996
19 draft EIS. Before we move forward with
20 presentations on this EIS and the receipt of
21 public comments, I think it would be valuable
22 to provide some background on the site and the
23 West Valley Demonstration Project. This will
24 establish the context in which this
25 Decommissioning and/or Long-Term Stewardship

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2 EIS is being developed.

3 Western New York Nuclear Service
4 Center is a 3,345 acre site owned by New York
5 State and managed by the New York State Energy
6 Research and Development Authority or NYSERDA.
7 From 1966 to 1972, a private company operated
8 the state-owned commercial used nuclear fuel
9 reprocessing facility at the site. Following
10 the 1976 announcement by the private operator
11 of its intent to withdraw from reprocessing,
12 the U.S. Congress passed legislation in 1980
13 directing the federal Department of Energy to
14 come to the site and conduct a Demonstration
15 Project to solidify the liquid high-level
16 waste at the site. This very radioactive
17 liquid was a byproduct of the reprocessing
18 operation.

19 In 1982, DOE assumed control of
20 approximately 200 acres of the Western New
21 York Nuclear Service Center to conduct the
22 project. New York State maintained ownership
23 of the entire Center and control of the
24 balance of the property outside the DOE
25 project premises.

DOE and NYSERDA jointly began the EIS for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of the Western New York Nuclear Service Center in December, 1988. This effort resulted in a draft EIS being issued for public review and comment in 1996.

DOE and NYSERDA will continue as joint lead agencies in revising the 1996 draft EIS. DOE, under the National Environmental Policy Act, and NYSERDA, under the State Environmental Quality Review Act, plan to evaluate the range of reasonable alternatives to address their respective responsibilities. The U.S. Nuclear Regulatory Commission, the U.S. Environmental Protection Agency, and the New York State Department of Environmental Conservation are participating as cooperating agencies.

In a moment, Dan Sullivan, DOE EIS Project Manager, and Paul Bembia, NYSERDA's Environmental Monitoring Manager, will further explain the work to be considered in this revised draft EIS.

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2 After their presentations, there
3 will be a brief question and answer period
4 specifically to clarify items related to this
5 EIS process or proposed actions being
6 evaluated. As well as Mr. Sullivan and Mr.
7 Bembia, Ms. Anna Bradford from the NRC, Mr.
8 Paul Giardina from the EPA, Mr. Tim Rice from
9 the NYSDEC will be available to answer
10 questions.

11 Following the question and answer
12 period, we will begin receiving oral comments
13 from individuals who have registered to speak.
14 Each speaker will be provided approximately
15 five minutes. If you have not registered and
16 would like to speak, you can sign up now at
17 the table to my right.

18 For the official record I wish to
19 note this scoping meeting is being held on
20 April 9th, 2003, at Ashford Office Complex in
21 Ashford Hollow, New York.

22 Before I turn the meeting over to
23 Mr. Sullivan, I would ask if you have any
24 questions regarding his presentation, please
25 write them down and ask them during the

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question and answer period that follows. Dan.

MR. SULLIVAN: Okay. I'm Dan Sullivan with the Department of Energy as John mentioned and I am the Project Manager for the EIS. I'm going to give you a little additional background in addition to what John said. I just want to make a few points.

DOE is here because Congress directed us to be here. The Act, the West Valley Demonstration Project Act, has certain tasks for us to complete and one of the big ones we've already completed is the certification, but there is more work to be done and this EIS is the document that is going to analyze some of the other actions, which are Decommissioning and/or Long-Term Stewardship.

The study is being done jointly with DOE and NYSERDA. They are the joint lead agencies. John mentioned this process started in 1988. And the scope of this original work, the scope of the EIS initially was completion of the Demonstration Project and Closure or Long-Term Management of the Center. We issued

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2 a draft in 1996, without a preferred
3 alternative.

4 John mentioned in 2001, we revised
5 the scope to now consider waste management
6 action as a separate NEPA document, a separate
7 EIS. That EIS is not the subject of this
8 meeting, but I can tell you that in probably
9 the next couple of weeks that will be
10 available for public comment.

11 Something else we did was we revised
12 the alternatives. We modified the
13 alternatives in the '96 draft to address what
14 was in NRC's policy statement, which was
15 issued in February of 2002.

16 In terms of the participants,
17 there's a term we use, cooperating agencies,
18 and essentially, the English version of what
19 that is is, it gives special expertise or
20 jurisdiction by law. The department invited
21 those agencies that have fulfilled those two
22 criteria to participate in EIS. They include
23 NRC; Environmental Protection Agency, the EPA;
24 NYSDEC, New York State Department of
25 Environmental Conservation under NEPA; under

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2 SEQR, the State Environmental Quality Review
3 Act. NYSDEC is an involved agency with
4 similar responsibilities. So again, special
5 expertise or jurisdiction by law. And all
6 those agencies bring that to the table. So
7 those are the participants.

8 In terms of alternatives, we have
9 posters and many folks had an opportunity to
10 look at the posters before this session
11 started, to help illustrate the concepts that
12 we're going to analyze in the EIS. And I
13 guess I should say the way the EIS is going to
14 work is that these are the concepts right now.
15 The way the EIS will be developed is for the
16 decision maker to be able to compare across
17 the alternatives. That's what it's all about.
18 Prepare these alternatives and make an
19 informed decision.

20 The alternatives that are being
21 considered in the EIS are Unrestricted Site
22 Release. I'm going to talk more about them in
23 a second; Unrestricted Site Release, Partial
24 Site Release without any Restrictions, Partial
25 Site Release with Restrictions, Monitor and

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2 Maintain under Current Operations and a No
3 Action, a Walk Away. So those are the five
4 alternatives that are being considered in the
5 EIS and part of the scoping process is to get
6 some feedback to say, is this all? Is this
7 the complete set? Are there other things
8 you'd like to see? Get some feedback. This
9 is what we are considering in the EIS.

10 I'll talk a little about the first
11 alternative and the picture that goes with the
12 words is the first picture down here. And
13 then the plain English version of this one is
14 if this is what the site looks like today, the
15 illustration for that first alternative is all
16 the waste there is removed. All the waste and
17 facility would be removed from the site
18 including the underground storage tanks, all
19 the buildings and the disposal facilities. So
20 like I said, everything that you see on this
21 picture is going to be removed. That would be
22 Unrestricted Site Release. The property would
23 be remediated such that it could be released
24 without restrictions in accordance with NRC's
25 license to termination criteria, 20 CFR 1402.

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2 The second alternative that we are
3 considering, that we are analyzing, Partial
4 Site Release without restrictions, which is
5 the second poster. So the easy way to think
6 about that one is sort of like the first
7 poster except the disposal units are still
8 there and they will be managed under some sort
9 of regulatory control. They stay where they
10 are, but the rest of the site, the North
11 Plateau, would be released. Other portions of
12 the site could be released, also. So it's
13 similar to alternative one with the exception
14 of the burial grounds.

15 The third alternative is Partial
16 Site Release with restrictions. And that's
17 the third poster. It might be easier to start
18 with the burial grounds. Again, the disposal
19 units, they would stay under some sort of
20 regulatory control. They would stay just like
21 they look in that photograph. Just like it
22 was in alternative two. Okay. The facilities
23 on the North Plateau, the major facilities
24 would be decommissioned in place, but there
25 would be some facilities that would be removed

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2 from the site. The North Plateau would be
3 released with restriction. Other unimpacted
4 portions of the Center could be released
5 without restrictions. The License Termination
6 Rule criteria that applies to the restrictions
7 is 20 CFR 1403 of NRC's policy statement.

8 The fourth alternative is Monitor
9 and Maintain. The site looks an awful lot
10 like it does today and that's the fourth
11 illustration. In this case, the VWDP, the
12 project facilities and the Center and all
13 property would be continued to be managed,
14 monitored and maintained and remedial actions
15 would be taken as necessary. Basically, we
16 would continue to do what we are doing today.
17 Okay.

18 The fifth alternative is the No
19 Action Alternative. We always get questions.
20 I will get questions today, No Action Walk
21 Away. Why would you ever implement that
22 alternative? It's not a case of implementing.
23 It's a case of an analysis. It's not
24 something that DOE is intending to do, but
25 again, we compare across alternatives as a

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2 useful tool to compare to the other
3 alternatives. In this case what it means is,
4 you assume all the activities that we are
5 conducting today be stopped. No Long-Term
6 monitoring or maintenance. Essentially, let
7 nature have its way with the site. Again, not
8 a viable alternative. It's used as the basis
9 against which potential impacts from other
10 alternatives could be compared.

11 So that's the alternative set that
12 we are considering to analyze in this EIS.
13 There's some other things we are going to look
14 at. If you read the Notice of Intent, which I
15 suggest you do, because there is more detail
16 there than what I just said a minute ago.
17 There is a list of proposed issues to be
18 considered in our analysis and there's a
19 partial list here but in the notice it's much
20 longer. I just picked some key ones.
21 Short-term and long-term impacts to the
22 environment, workers and the population.
23 These are issues the decision makers who want
24 some information on it, we are going to
25 analyze that.

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2 Costs, long-term and short-term
3 costs, that analysis would be part of this
4 EIS.

5 Ability to comply with applicable
6 requirements. Obviously, you'd expect to see
7 that there as well.

8 Long-Term Stewardship, a key issue
9 for many and that would be part of the
10 analysis along with long-term site stability
11 and waste disposition, including interim
12 management and transportation, will be all
13 part of that analysis.

14 I think this is my last view graph.
15 In terms of schedule and process, we have
16 another scoping meeting tomorrow night, same
17 time, same place. The official scoping period
18 is going to end April 28th. And that's just
19 over 45 days.

20 In the past, we have been able to
21 consider comments beyond the end of the
22 scoping period. To the extent practical, we
23 are going to continue to do that. But if
24 you've got a comment and you want to make it,
25 it would be best if do you it within the April

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2 28th time frame. Comments are going to be
3 considered during preparation at the revised
4 EIS. It is my goal to issue a revised draft
5 as soon as possible. The Notice of Intent
6 says as soon as December of 2003, that's my
7 goal. A public comment period will follow
8 that, follow issuance of the draft up to 180
9 days, with a goal to reach a Record of
10 Decision at the end of 2004. So that's the
11 schedule. I think that was my last view graph
12 so I believe I'll turn it over to Paul Bembia.

13 MR. BEMBIA: My name is Paul
14 Bembia. And I'm the Program Manager with the
15 New York State Energy Research and Development
16 Authority, commonly known as NYSERDA. NYSERDA
17 owns the Western New York Nuclear Service
18 Center on behalf of New York State. We have
19 11 people at West Valley under management of
20 Dr. Paul Piciulo. NYSERDA has a couple wells
21 here at the Western New York Nuclear Service
22 Center.

23 First of all, we manage a few areas
24 of this site ourself. We manage the
25 State-Licensed Disposal Area and we manage the

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2 portion of the site known as the Retained
3 Premises. I'll talk more about those in a
4 moment.

5 In addition to that, NYSERDA funds
6 10 percent of the cost of the West Valley
7 Demonstration Project. So as part of that
8 role, we also monitor the activities of the
9 West Valley Demonstration Project for NYSERDA.

10 I want to give you a little
11 background on the Center. The Center is a
12 3,300 acre site. It's located primarily in
13 the Town of Ashford in Cattaraugus County. A
14 small portion the site is located in the Town
15 of Concord in Erie County.

16 The Center is made up of a few
17 different areas and I want to talk a little
18 bit about those. First of all, we have got
19 West Valley Demonstration Project premises.
20 That's the area right here in green. This is
21 the area where the majority of the
22 reprocessing facilities were located when
23 reprocessing operations were occurring at the
24 site. It's the area of the site that the
25 Department of Energy has control over for the

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2 conducting the West Valley Demonstration
3 Project. And it's also the area where the
4 majority of the facilities that are going to
5 be assessed through the Environmental Impact
6 Statement are located.

7 Adjacent to the Demonstration
8 Project premises is this little blue cross
9 hatched area here. That is the State-Licensed
10 Disposal Area. The State-Licensed Disposal
11 Area is the shutdown commercial disposal
12 facility on the site. It operated in the
13 1960's and 1970's. And that portion of the
14 site is managed by NYSERDA.

15 The remainder of the site is the
16 area of the site that we call the Retained
17 Premises. NYSERDA manages that portion of the
18 site as well. Now, there's a couple of green
19 areas in here, also. Those are reservoirs and
20 those are partly managed by the Department of
21 Energy under the Demonstration Project. There
22 are some other minor areas there in the
23 Retained Premises as well. There's a firing
24 range, a warehouse and environmental
25 monitoring locations. Those are all

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2 facilities that are managed by DOE under the
3 West Valley Demonstration Project.

4 Now, while I have this slide up
5 here, I just want to talk for a little bit
6 about the regulatory structure for the site.
7 The entire Center with the exception of the
8 SDA is licensed by the Nuclear Regulatory
9 Commission in 1966 when reprocessing began.
10 That license or at least that technical
11 specification of the license from the day to
12 day operational parts of the license were put
13 in abeyance and temporarily put aside when the
14 Department of Energy came in to conduct the
15 West Valley Demonstration Project and they
16 took over the major facilities.

17 The State-Licensed Disposal Area,
18 again, it's not under that license. It's
19 regulated by the New York State Department of
20 Environmental Conservation. There's a part
21 380 permit for the State-Licensed Disposal
22 Area issued by NYSDEC and that's for the
23 prevention and regulation of the release of
24 radioactive materials. In addition to that,
25 NYSDEC regulates hazardous waste and hazardous

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2 constituents for the SDA and for the
3 Demonstration Project.

4 The Environmental Protection Agency
5 also has a role in the regulation of the
6 hazardous materials onsite and have got other
7 regulatory responsibilities as well.

8 As you heard, we have
9 representatives here tonight from the Nuclear
10 Regulatory Commission, the Environmental
11 Protection Agency, and the New York State
12 Department of Environmental Conservation.
13 They are participating in this EIS process.

14 I want to talk a little bit about
15 NYSERDA participating in the EIS. First as
16 Dan mentioned, we are a joint lead agency with
17 the Department of Energy on the EIS. And why
18 is that? It's because the Environmental
19 Impact Statement covers more than just the
20 West Valley Demonstration Project. It covers
21 the entire Western New York Nuclear Service
22 Center and so it covers the areas of the site,
23 the Demonstration Project part and it covers
24 the parts of the site that NYSERDA is
25 responsible for as well. I'll talk more about

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2 that in a minute.

3 Since the EIS covers more than just
4 the West Valley Demonstration Project, we had
5 a written agreement with the Department of
6 Energy regarding the management and cost for
7 the preparation of the EIS. Under that
8 written agreement, DOE manages the contractors
9 for the preparation of the document.

10 How will we use this EIS to support
11 our decisions? First, for the Retained
12 Premises portion of the site, again, that
13 portion of the site is managed by NYSERDA.
14 NYSERDA has responsibility for it. It's under
15 the NRC license and so as part of the EIS
16 process, we will be looking at the direction
17 of decommissioning the long-term management
18 for the operation of the site. Because it is
19 our intent that when DOE is completed with the
20 Demonstration Project, that we will terminate
21 the NRC license. We will also use the
22 Environmental Impact Statement and analysis
23 for the support of the license termination
24 application.

25 The West Valley Demonstration

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2 Project portion of the site, again, it's our
3 intent that when DOE completes the project, we
4 will terminate the license and we will use the
5 Environmental Impact Statement analysis to
6 support that license termination application.

7 The State-Licensed Disposal Area,
8 this portion of the site is not under the NRC
9 license but again, we're looking at the
10 direction of the decommissioning of the
11 long-term management of all of the facilities
12 at the Center. So we'll be doing that at the
13 State-Licensed Disposal Areas as well and
14 because it's regulated by the New York State
15 Department of Environmental Conservation, if
16 there are any permitting actions or permitting
17 activities that come out of that, the EIS
18 would support those permitting actions.

19 I just wanted to say here that you
20 can feel free to contact me. If you need any
21 more information about NYSERDA, you can feel
22 free to contact me. My telephone number is
23 942-4900 and my e-mail is pjb@nyserda.org.
24 You can also get more information on NYSERDA's
25 programs, general information at

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www.nyserda.org and there's another web site

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there where you can get specific information

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on our West Valley Site Management Program.

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That's all I have. Thank you.

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MR. CHAMBERLAIN: What I thought

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we do before the question and answer period

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before people provide their comments, I asked

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some people to come and sit up front just so

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that everyone can hear so if those folks would

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like to take a seat up here. While they are

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doing that, I just mentioned that we have been

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talking about the revision of the 1996 draft

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EIS and I don't know that I clearly pointed

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out at the beginning of the meeting, there are

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copies of that draft up here and there is a

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copy of the summary up here should anyone that

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doesn't have it like to know a little about

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the starting point, feel free to grab one on

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your way out. These folks all agreed to sit

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up front in hopes that there are a few

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questions. Paul and Dan, obviously, from the

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two lead agencies.

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I'm proceeding slowly so we don't

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mispronounce anything this time around, Anne

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and Paul and Tim from the three regulatory agencies that are cooperating in the development of this study. Again, these are basically questions that might clarify what the process is or why we are going forward in this way. It's not meant to be for detailed questions. Certainly, when we get done taking comments, we all will be around here for a while. If you want to talk to someone in more detail, it will be fine.

Does anybody have any questions about this EIS or the process or one of the agencies' roles? Have we got them all lined up and there's no questions? We'll all take a deep breath and go back and sit down.

MS. DARRIGO: I'm sorry I was a few minutes late. But why are we having this EIS? We already had one in '96.

MR. CHAMBERLAIN: Do you want to state your name for the transcriptionist?

MS. DARRIGO: My name is Diane Darrigo.

MR. CHAMBERLAIN: Thank you. For every one, that the question is why are we

having this EIS because we had a draft done in 1996.

MR. SULLIVAN: We have revised the scope of the EIS in 2001 and we are looking at -- initially the EIS considered waste management and decommissioning actions in the same document. In 2001, we revised the scope of the '96 draft to have waste management actions be in a separate document and decommissioning actions, a continuation of the '96, the EIS we are talking about right now. Some important things happened since 1996.

MS. DARRIGO: The decommissioning is continuing from the old one?

MR. SULLIVAN: Correct.

MS. DARRIGO: And waste management is the purpose of this new one?

MR. SULLIVAN: Is not the purpose of the meeting this evening. It's a separate NEPA document, separate EIS, which will be available for public review in the next couple weeks. Tonight's meeting is about the decommissioning of the EIS, the continuation

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of the '96 EIS. And what I was going to say has happened that between the time where we are now and the '96 draft, was something very important. NRC issued their Final Policy Statement of West Valley, which I guess for lack of a better expression, it sort of set the end points. It described the closure criteria. So now, we have a target to shoot for. That was a key ingredient now and this EIS will consider what was said in that policy statement. The alternatives that are right behind you are the alternatives that were analyzed and that's the purpose of the meeting today, to get feedback on those alternatives.

MS. DARRIGO: This EIS today is -- you're redoing what we did in '96 because the NRC now has authority?

MR. SULLIVAN: The NRC always had authority.

MS. DARRIGO: Well, because we are now going to use the NRC's 10 CFR 20 in decommissioning --

MR. SULLIVAN: That's part of the reason. Yes, yes.

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MS. DARRIGO: Because you are
doing that, you had to do a new EIS?

MR. SULLIVAN: No, no, no. I'm
just describing some of what happened in that
time frame. Some of the history that will be
incorporated in this NEPA document. One of
the things the '96 draft didn't have was as
clear a focus on what the final criteria was.
We have that now.

MS. DARRIGO: Why are you -- I'm
sorry.

MR. SULLIVAN: We're rescoping --

MS. DARRIGO: You're rescoping.

MR. SULLIVAN: Waste management
actions are being considered a separate
document. Initially --

MS. DARRIGO: So it doesn't cover
as much. You're narrowing what the original
one was going to be doing?

MR. SULLIVAN: Correct.

MS. DARRIGO: So the part of what
it had to cover is being covered somewhere
else?

MR. SULLIVAN: Correct. The way

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2 to think of it, all of what was to be
3 considered in the '96 draft EIS is now
4 considered in two EIS's. The one we are
5 talking about tonight, which is the
6 decommissioning and/or long-term stewardship
7 part of it. The waste management piece is
8 covered in a separate EIS. Nothing is lost.
9 All the parts are there. It's just in two
10 pieces. Okay.

11 MR. CHAMBERLAIN: Okay.

12 MR. VAUGHAN: Dan, how do you
13 deal with the segmentation question?

14 MR. CHAMBERLAIN: Excuse me, can
15 you give her your name?

16 MR. VAUGHAN: Yes, my name is Ray
17 Vaughan.

18 MR. CHAMBERLAIN: Thank you.
19 Your question was how do you deal with the
20 segmentation question. Dan, you want to -- I
21 think you answered it before.

22 MR. SULLIVAN: I'll take a shot
23 at it. We have attorneys here, too. You
24 know, we have looked at it very closely. I
25 know it's been a concern of yours. We don't

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2 see that as an issue. Typically, segmentation
3 comes up as a problem if you're trying to
4 avoid an EIS. We are not doing that at all.
5 We are, in fact, doing two EIS's. We don't
6 see it as segmentation.

7 MR. CHAMBERLAIN: Anything else?
8 Diane?

9 MS. DARRIGO: I actually have two
10 questions. One is, there were options in the
11 '96 that aren't in this EIS. So what happened
12 to the option No. 2 or Alternative No. 2,
13 which would have been to clean the site up and
14 then have the waste packaged in a way it could
15 go to a permanent site once one was available,
16 but it wouldn't leave it in the ground.

17 MR. CHAMBERLAIN: I can just
18 repeat that. Just make sure everybody heard.
19 The question was there was an alternative in
20 the '96 draft, tell me if I'm wrong?

21 MS. DARRIGO: Alternative two.

22 MR. CHAMBERLAIN: Alternative two
23 was to dig up, tear down everything and
24 package the waste and store it onsite, and
25 that alternative is not here at least in that

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form.

MS. DARRIGO: And that's the EIS that would cover it. The other one wouldn't necessarily cover it. This is where it would be if you weren't removing it as an option.

MR. SULLIVAN: That is correct. That is a good question. The concepts of storage, there are aspects of that that are included in the other alternatives. There are instances where interim storage of waste would have to take place. For instance, that first alternative is if everything was being removed and you couldn't send it off site right away for disposal somewhere else, you may have to have interim storage for select waste types for a period of time.

So concepts from that alternative are still preserved and are in this document. But something else important happened since 1996 and where we are today. We now have access to inexpensive and safe access to DOE sites where this waste could be disposed of. The Notice of Intent -- I tried to address that question under the section alternatives

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2 considered but eliminated from further
3 evaluation.

4 And real quickly, you ought to take
5 a look at that. I'm basically describing what
6 we have written here. That alternative is not
7 a viable alternative any longer because we now
8 have access to locations where it could be
9 disposed of. Storing it indefinitely is not a
10 reasonable alternative any longer. So I would
11 suggest, we can talk about it later if you'd
12 like or if you go back and take a look at the
13 Notice of Intent, I think it does a decent job
14 of describing in more words what I just said.

15 MR. CHAMBERLAIN: Anyone else?
16 Any other questions? Ray Vaughan.

17 MR. VAUGHAN: Yes, Ray Vaughan
18 again. I don't know whether this is a
19 question for you, Dan -- or Dan or who, but
20 let me ask several related questions. The
21 first is whether DOE and NRC considered the
22 issuance of NRC's Final Policy Statement to be
23 a discretionary NRC decision?

24 MR. CHAMBERLAIN: Would you like
25 to clarify that a little bit more?

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MS. BRADFORD: I'm not sure what you mean by discretionary.

MR. VAUGHAN: Discretionary decisions are ones that are made using some exercise of judgment. They are not involved in just looking down the checklist, for example. So agencies that make a fairly broad decision where there's an element of judgment involved are called discretionary. Given that, would you regard the issuance of the NRC Final Policy Statement as a discretionary decision?

MS. BRADFORD: I don't think that the restriction of the License Termination Rule would be discretionary because that's the same rule that applies in other licenses.

MR. VAUGHAN: Do you believe that NRC had full authority given to it by Congress under the West Valley Demonstration Project Act in 1980 to adopt any regulations it wanted -- or excuse me, any requirements that it wanted for the decommissioning at West Valley?

MR. CHAMBERLAIN: Just give your name.

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MR. LIEBERMAN: I'm Jim Lieberman, Attorney for the NRC. I think you're asking some legal questions here. I'm not familiar with the term discretionary as you're using it. I am familiar with the phrase discretionary versus administerial type actions. Clearly, the commission's actions involves judgment and we certainly think that issuance of the policy statement was within the authority of the commission in doing what Congress directed the agency to do. If that answers your question?

MR. VAUGHAN: Yes, but to clear up any misunderstanding, I also would make that distinction between discretionary and administerial. Can you give me your opinion what those two terms mean and what the difference is?

MR. LIEBERMAN: Administerial actions are pretty straight form. There is no judgment. It is or it isn't discretionary. It is some judgment. Expertise is needed to make the decision.

MR. VAUGHAN: Okay.

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MR. CHAMBERLAIN: All right. All set.

MR. VAUGHAN: No, I have more.

MR. CHAMBERLAIN: I would just interject. We really would like -- these are certainly questions you can talk about after this period, but we would like to focus very clearly on scoping type questions related directly to this EIS.

MR. VAUGHAN: This definitely gets in that direction. It really has a lot to do with it. I'd like to ask Jim or Anne, again, do you see the issuance of the NRC Final Policy Statement as having been a major Federal action that may have a significant affect on the environment?

MR. CHAMBERLAIN: Ray, I'm not legal counsel here either, but in terms of a scoping meeting, I'm not sure that I understand how that applies to the scoping content of this particular study you are looking for.

MR. LIEBERMAN: I can answer that question. The commission is not establishing

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2 a new requirement here. NYSERDA, as the
3 licensee of the commission, is subject to the
4 License Termination Rule and the commission
5 decide and apply to the License Termination
6 Rule. In itself, that's not an major federal
7 action. In applying the License Termination
8 Rule to this site or any other site, we have
9 to do appropriate environmental reviews.

10 In a site that involves restricted
11 release, potential restricted release, the
12 commission has said that we need to consider
13 how the impact under the potential restricted
14 release compares to the impact of the generic
15 environmental statement that is supported --
16 and that's why we need to consider the
17 alternatives that DOE is considering for
18 decommissioning to test against the generic
19 environmental impact statement for the move
20 and we do that through either an environmental
21 assessment or an EIS. And in this case we are
22 using the DOE's EIS assuming it's capable of
23 being adopted by the agency.

24 MR. VAUGHAN: The concern that I
25 have, Jim, is that NRC is attempting to

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2 participate in this EIS without recognizing
3 the need to do an EIS for adoption of the
4 Final Policy Statement. As I understand it,
5 from what you said, there was an exercise of
6 judgment in adopting the Final Policy
7 Statement, which sets the rules under which
8 this EIS will be conducted, but the adoption
9 of those rules has not received the
10 appropriate NEPA coverage and what you just
11 said, you said you would be looking at some
12 impact how those rules might be adopted, but
13 that is different from the adoption of the
14 rules. And I'm very concerned that NRC
15 continues to think that it can be a part of
16 this EIS not only to offer its expertise,
17 which is clearly needed, but also to somehow
18 acquire NEPA coverage for the adoption of the
19 Final Policy Statement, which sorely needs
20 it. Feel free to comment then. I would
21 welcome any comments to the contrary. That's
22 my concerns.

23 MR. CHAMBERLAIN: Accepted.
24 That's a little over 10 minutes. Does anyone
25 else have a question that maybe hasn't been

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asked?

MR. CHAMBERLAIN: Okay. Our first commentor will be Carol Mongerson. Carol, if you wouldn't mind stepping up so the stenographer can hear you?

MS. MONGERSON: Let me ask you, can you hear me without it?

UNIDENTIFIED SPEAKER: No.

MS. MONGERSON: My name is Carol Mongerson. This hearing is unnecessary and I'm here to protest it. By holding it, you are breaking a contract that you signed with the West Valley Coalition. And you're forcing us to go back to court to stop you. We are going to court because what you are allowing here will adversely and irrevocably affect both the population and the environment for generations to come.

Now, why would they want to do such a thing? Because by splitting the EIS in two pieces and rescoping it like they are doing, that allows them to change the name of some very troublesome radioactive waste onsite from high level waste to incidental waste. That

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2 will allow them to meet the standards. It's
3 just a paper change.

4 It also allows the NRC to play the
5 game before they set the rules and to get
6 around doing their own EIS as Ray was just
7 talking about for setting the safety criteria.
8 It allows the NRC to play the game and it
9 allows the DOE to ignore the people who
10 commented at the original EIS hearing, the
11 majority of people, the original scoping
12 hearing.

13 The Coalition believes that the
14 radioactive waste at West Valley should not be
15 just squirreled away in some irretrievable
16 form, like concrete, for instance, but that it
17 should be held in above ground retrievable
18 storage where it can be monitored.

19 Maybe I've been to too many of these
20 hearings, these scoping hearings, but I'd like
21 to tell you a little fable. Once upon a time,
22 there was a rich and powerful king, who had a
23 terrible problem. He had a beautiful golden
24 treasure. It made everyone sick. They died
25 of blue teeth. Of course, the king had blue

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teeth. But he was the so rich and powerful,
he made it very fashionable. People used to
eat blueberries so they'd look like the king.
But eventually, they began to protest. They
complained because they were tired of dying.
They took to the streets. They got louder and
louder, reluctantly because it was very
beautiful. The king decided to give up his
treasure. He pondered and pondered about what
to do with it. Where could he hide it so no
one would ever find it. One dark night he
went out and he dug a hole and he laid the
treasure in it and kissed it good-bye
promising to return when the protest died
down. Then he covered it all over with
concrete. Not just ordinary concrete you
understand, special stuff. But alas, the king
was mortal. He died carrying the knowledge of
his treasure's hiding place to the grave.

Well, many, many, many, many years
went by. The kingdom was now a queendom. A
woman could handle the job now that so many
people were dying of blue teeth. The queen
was sad because the people were dying of blue

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2 teeth. She had called in her advisors. They
3 scratched their heads and said that although
4 they were very wise and they knew a great many
5 things, they did not know this one. They
6 didn't know why people got blue teeth. There
7 had always been rumors about a blue teeth
8 treasure that was buried somewhere but nobody
9 would remember where it was.

10 They sent for the oldest man in the
11 queendom hoping he would remember something.
12 And he said that was true. His great great
13 grandfather had told him. Aha, said the
14 queen, where is it? We will just dig it up
15 and get rid of it. Simple. The old man who
16 just laughed politely, of course, but he
17 didn't know where the waste was hidden.

18 So the queen called in the record
19 keeper. They scratched their heads and they
20 said they didn't know. They no longer had any
21 of those plastic boxes with the long black
22 tails that people used to keep their records
23 in.

24 She called in the scientists and the
25 engineers. They thought and thought. They

1
2 gave everything new names. Then they
3 scratched their heads and said they didn't
4 know. She called in the diggers. They dug
5 and dug. They looked and looked and they
6 scratched their heads and said they didn't
7 know either.

8 Finally, she called in the
9 philosophers. They had a colloquium. They
10 had another colloquium. They taught the queen
11 some very long words and they scratched their
12 heads and said they didn't know either.

13 Alas, the queen grew old. She lay
14 dying on the royal bed in the darkened room.
15 The learned doctors scratched their heads.
16 Shook their heads over the near lifeless body.
17 The mourners mourned. Sorrow hung in the air
18 like a dank, vaporous effluent.

19 Suddenly she sat up. She reached
20 towards the heavens and she said, through her
21 blue teeth, I've got it. I've got it at last.
22 The answer.

23 Retrievability! We should have kept
24 it above ground and skipped the concrete. As
25 she sank down, she said with her last breath,

of course, we never should have made it in the first place. Thank you.

MR. CHAMBERLAIN: Next commentor is Gladys Gifford.

MS. GIFFORD: Good evening. My name is Gladys Gifford. I speak tonight as a private citizen, who happens to be deeply involved in my church and community. I live in Eggertsville on the north side of Buffalo.

I have served the Presbyterians in New York as an observer at the meetings of the Citizens Task Force here in Ashford since 1996. This Citizens Task Force has worked hard to bring together all segments of the public in their effort to find a reasonable solution to the unreasonable burden that has been laid on this community.

I applaud the Citizens Task Force. In so doing, I urge the DOE to respect their work and to listen carefully to their concerns and then do heed their recommendations. They have, over these many months, demonstrated good faith with their constituents. They provide a rare model of real representative

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democracy in action.

 The issue before us today is truly an unreasonable burden. How shall we grapple with it? We, the people, of this region are required by Congress to rely on our Federal Government to provide the answer. I submit that you, the Federal representatives, have two unpleasant choices. If you choose to mothball the radioactive waste at West Valley, they will continue to poison us and our descendants here in Western New York for hundreds and hundreds of years. If you choose to unearth the radioactive wastes at West Valley, we will all bear a large financial burden for the remaining years of our lifetimes and pass that burden on to our children. Which shall you choose?

 This decision will be made in the political sphere, not the bureaucratic one. As such, it is a rare opportunity for our political leaders to exercise real statesmanship. Our politicians can choose to make this decision a clear instance of doing justice for both the people and the land of

our region.

We know that the political leaders look at this site as a precedent-setting move. If West Valley can be mothballed, then so can other and larger sites across the country, and huge financial costs can be avoided. Please tell our political leaders to consider otherwise.

Please tell them that this is not truly a political issue. It is a moral issue. The issue has to do with doing what's right for this region. If we fail to do what's right for this region, if we fail to remove these poisons out of the ground, if we fail to move them into sight in a place where the humans who continue to live here can monitor them for hundreds, even thousands of years, if we fail in this task, then we will have committed a grave sin against all of humanity and especially against our own people and our own land. We beg you to tell our leaders. Make this political decision the right decision.

The burden of nuclear waste has one

1
2 huge advantage over other sources of toxins
3 that our modern civiliation dumped into the
4 land: nuclear waste makes itself known.
5 Nuclear waste can be found. It can be traced.
6 We are able to know exactly where it is and in
7 what form. Therefore, this is a problem that
8 can be handled. This is a burden we can see.
9 That we can put in one spot. That we can
10 quantify and even touch. It is, therefore, an
11 easier burden for the government to handle
12 than the more diffuse burden of chemical toxic
13 waste. This is an opportunity for the Federal
14 Government to act in good faith by solving the
15 problem of nuclear waste, not by burying it,
16 not by keeping it out of sight but by bringing
17 it to the surface where the people can see
18 this burden and keep tabs on how the Federal
19 Government is fulfilling its responsibility.

20 The proposal before us suggests that
21 the remaining sludge in the underground tanks
22 can be reclassified. I protest that to change
23 the label put on the waste is irrelevant to
24 the facts. The waste has not changed its
25 characteristics just because politicians want

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2 to handle it differently. Why create
3 confusion? Why encourage the public to be
4 even more distrustful of their leaders?

5 Exhume the buried waste and turn it
6 into a mausoleum in full view for all to
7 watch. Ensure that this burden becomes an
8 object lesson of the costs that our nuclear
9 technology has brought upon us for all to see.
10 Put the waste where the community can see it
11 as evidence that the Federal Government can
12 act in this instance with the future firmly in
13 mind regardless of current political power.

14 I sincerely hope that the Department
15 of Energy will decommission the West Valley
16 Nuclear Service Center. Let the DOE exhume
17 the radioactive materials and store them on
18 the surface in a form that can be eventually
19 be moved to a permanent repository. Let the
20 DOE honor the recommendations of the Citizens
21 Task Force and let the land be healed. Thank
22 you.

23 MR. CHAMBERLAIN: Next commentor
24 is Ray Vaughan.

25 MR. VAUGHAN: I will try to use

1
2 just four acronyms: DOE for Department of
3 Energy, NRC for Nuclear Regulatory Commission,
4 EIS for Environmental Impact Statement, and
5 NEPA for National Environmental Policy Act.
6 And I will also try to read my own writing,
7 which was written partly on the subway and the
8 bus today so we'll see about that.

9 My first comment is that the Notice
10 of Intent misrepresents the stipulation. The
11 stipulation of compromised settlement is
12 paraphrased incorrectly and badly in the
13 Notice of Intent. In part, the Notice of
14 Intent says that the stipulation involved an
15 the agreement, quote, to evaluate the
16 feasibility of onsite disposal of low level
17 waste generated as a result of Project
18 activities in a Cleanup and Closure EIS, and
19 to initiate the EIS process by the end of
20 calendar year 1988, end quote. The
21 stipulation says what it says. It should not
22 be paraphrased in that manner.

23 My second comment is that the
24 proposal to engage in Decommissioning or
25 Long-Term Stewardship is wrong as proposed in

1
2 the Notice of Intent. The West Valley
3 Demonstration Project Act requires
4 decommissioning. It does not authorize
5 long-term stewardship.

6 My third comment is that under the
7 stipulation, DOE has no authority to rescope
8 this EIS. We, the Coalition, have not agreed
9 and do not agree that this rescoping should
10 take place.

11 My fourth comment is that DOE cannot
12 replace the 1996 draft EIS. If any new draft
13 EIS is produced, it must be as a supplement.

14 My fifth comment is that DOE cannot
15 abandon alternatives such as alternative two,
16 that were initiated based on the original
17 scoping for this EIS in the 1980's, developed
18 by proper procedures and presented in the 1996
19 draft EIS.

20 My sixth comment is that many of the
21 comments in the 1996 draft EIS were comments
22 on alternative two, and many were generally
23 favorable. DOE cannot simply abandon this
24 alternative.

25 My seventh comment is that when DOE

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2 lists and responds to comments in a final EIS,
3 including all the comments made on the 1996
4 draft EIS, as well as any new draft EIS that
5 might be proposed, the comments should be
6 shown individually, quoted verbatim, and
7 responded to individually in the final EIS.

8 Speaking for myself, I don't want my
9 detailed comments and I submitted a lot on the
10 1996 draft, I don't want my detailed comments
11 lumped into a generic summary. DOE may
12 rearrange the comments into related groups,
13 but you keep the original language of each
14 comment.

15 My eighth comment tonight is that in
16 assessing impacts to various alternatives, DOE
17 should use probabilistic risk assessment
18 especially in any case where there are
19 competing modes of failure. A prime example
20 is DOE's re-engineering of the high level
21 waste tank dose.

22 My nineth comment is that DOE cannot
23 create gaps in the train of logic in the paper
24 trail that will lead to the final EIS and
25 Record of Decision. The jumping off point for

1
2 any new supplemental draft EIS is the 1996
3 draft EIS, as well as comments received on
4 that draft EIS. Any changes made to the 1996
5 draft EIS must be made and justified
6 explicitly in the supplement, not in some
7 intermediate document.

8 My tenth comment is that any erosion
9 modeling must take slumping, mass wasting, et
10 cetera, into account.

11 My eleventh comment is that any
12 erosion modeling must be calibrated against
13 actual measured changes in representative
14 stream profiles at valley cross sections
15 including such changes in areas where slumping
16 and mass wasting are occurring.

17 My twelfth comment is that any
18 erosion modeling must take stream capture or
19 stream piracy into account.

20 My thirteenth comment is that any
21 erosion modeling must take piping and seepage
22 into account.

23 My fourteen comment is that any
24 erosion modeling must take gully formations
25 into account.

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My fifteenth comment is that any erosion modeling must take into account the different erodibilities of bedrock, till, sand, gravel, and other units.

My sixteenth comment is that any erosion modeling must include Buttermilk Creek at least from the major slump area on Buttermilk Creek to its confluence with Erdman Brook, Frank's Creek and Quarry Creek.

My seventeen comment is that any erosion modeling must take into account the loss of Buffalo, Rochester and Pittsburgh Railroad maintenance of the hill slope on which the railroad right-of-way is located.

My eighteenth comment is that any erosion modeling must take into account the leading term removal of Springville Dam, and the long-term downcutting of Cattaraugus Creek and its affect on the steepening gradient of Erdman Brook, Frank's Creek and Buttermilk Creek.

My nineteenth comment is that any erosion modeling must take into account climate change and the accompanying increase

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2 in intense storm events.

3 My twentieth comment is that any
4 dose projections should take into account the
5 populations that are reasonably expected to be
6 exposed including residents of the Seneca
7 Nation of Indians, Erie County residents
8 served by the Erie County Water Authority,
9 Buffalo residents served by Buffalo's
10 Municipal Water System, and residents in the
11 United States and Canada whose drinking water
12 comes from the Niagara River or Lake Ontario.

13 My twenty-first comment is that if
14 there is any disposal involved in the
15 decommissioning, Section 2A4 of the West
16 Valley Demonstration Project Act will apply
17 and disposal decisions made by the licensing
18 agency must receive full and explicit NEPA
19 review.

20 My twenty-second comment is if there
21 is any discretionary NRC decision making
22 involved in the decommissioning, it must
23 receive full and explicit NEPA review.

24 My twenty-third comment is that
25 NRC's adoption of the West Valley Final Policy

Statement was discretionary decision making.

My twenty-fourth comment is that any NRC decision on termination of the part 50 site license will involve discretionary decision making.

My twenty-fifth comment is that any NRC decision on creating a new license for all or part of the site will be discretionary decision making.

My twenty-sixth comment is that any discretionary decision making by state agencies will likewise require full and explicit NEPA review.

My twenty-seventh and last comment is that the West Valley Demonstration Project Act does not allow high-level waste to be reclassified as waste incidental to reprocessing. DOE must not use this rescoping to do so. Thank you.

MR. CHAMBERLAIN: Thank you, Ray. Is there anyone else here who did not sign up to make a comment but would like to at this time? Okay. As far as the official meeting, this is a close. The rest of us will be

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waiting here for a while. It was advertised until -- oh, there is one.

MR. PICKERING: I signed up to speak.

MS. ALLEN: Oh, I'm sorry. I thought you were just submitting a written comment.

MR. CHAMBERLAIN: Mr. Pickering, Jim Pickering.

MR. PICKERING: My address is Post Office Box 51, Arcade, New York.

In my request to speak, I listed eight items and just to show you that we are not the only one that makes mistakes, I made a mistake. The second item I marked down that the notice fails to provide the publication date of the decommissioning criteria issued by NRC. In the margin I said it was hidden on page two. So I make mistakes, too.

The other thing that I want to say before I start with these lists, is you have asked that we limit our speeches to five minutes. If you had been specific and said you are limited to five minutes, you would

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2 have encroached upon the First Amendment of
3 the Constitution of the United States and I
4 would ask that in the rest of your
5 presentations from here on in, you do not
6 attempt to limit the speeches of the people
7 who are protesting and grieving the conduct of
8 the Government.

9 Now, Public Law 96-368 is the West
10 Valley Demonstration Project Act. Item No. 1,
11 the statute provides for one EIS not two, not
12 six or a hundred.

13 The department has exceeded its
14 constitutional authority because only the
15 Congress passed the law. The President
16 doesn't have the right to change it. And no
17 department head created by an act of Congress
18 has the right to change it. It can only be
19 done by the Congress. The statutory authority
20 does not exist for a revision.

21 Congress is limited in the laws that
22 it makes to those laws that are necessary and
23 proper. Congress did not see that it was
24 necessary or proper for the executive or
25 anybody else to change the law that it passed.

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2 So this organization, the Department of
3 Energy, is limited by Public Law 96-368. We
4 cannot change it. It has to be done exactly
5 as Congress wrote it. I covered the executive
6 and I covered the other.

7 October 1st, 1980, contract between
8 DOE and NYSERDA must be completed as an
9 obligation enforceable by the constitutional
10 clause re: obligation of contracts. That
11 pertains to a prohibition which the
12 Constitution had applied to all of the states.
13 They can pass no law setting aside the
14 obligation of contracts.

15 Now, there is such a thing in law as
16 defacto. And what does defacto mean? It
17 means that this has already been accomplished
18 and you can't change it. Well, when the
19 Constitution says to all of the states you can
20 pass no laws changing the obligation of
21 contracts, the defacto applies to the Nation
22 because it's an inverse power. It applies to
23 the whole country. So we cannot change the
24 obligation of this contract between DOE and
25 NYSERDA. It must be enforced the way it was

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2 written.

3 Now, if we do not do that, we are
4 going to create a constitutional crisis, which
5 will go before the U.S. Supreme Court. Common
6 law juries have the right to determine facts,
7 not judges and not lawyers. We, the People,
8 the first three letters of the Constitution,
9 we, the People, set this thing up. We want to
10 determine the facts. That's why you are all
11 here. We want to determine the facts. We
12 want to be able to tell you which way to go.
13 This is what we want. So if it becomes a
14 Constitutional crisis, you may find out that
15 you're going to have nine judges up there,
16 sitting up there and some little old citizen
17 is going to say, I want a jury here to
18 determine the facts and they will have to give
19 them to us.

20 On page number 7 here, on page
21 12045, in this notice of whatever it is,
22 there's no concern for the policy of who
23 determines what's reasonable? It doesn't say
24 that who determines what's reasonable. That's
25 only one word, but do we, the People, do it or

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2 do our hired hands do it, the Department of
3 Energy, NYSERDA? Who determines what's
4 reasonable as far as the water I'm going to
5 drink, the air I'm going to breathe, the area
6 where I'm going to live? Who determines
7 what's reasonable? That belongs to the
8 people.

9 Page 12046, on alternative one, I've
10 got marked down here A, no good. Let's see
11 what alternative -- Unrestricted Site Release.
12 Now, as far as I'm concerned, all of these
13 alternatives do not apply to the whole NYSERDA
14 complex. They only apply to that part of the
15 complex that is run by the United States, the
16 Department of Energy.

17 And the West Valley Demonstration
18 Project Act specifically defines transuranic
19 waste. The Department of Energy just lost a
20 case entitled the State of Idaho versus DOE,
21 where 10 nanojuries was redefined to a hundred
22 nanojuries as a minimum exposure. My friends,
23 transuranic waste as far as West Valley is
24 concerned is in Public Law 96-368.

25 Additionally, Public Law 96-368 goes

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2 further and it says, there will be no other
3 regulations that apply to any other site in
4 the country. What is done here at West Valley
5 is a Demonstration Project and it is unique
6 and nobody else is going to have something
7 that is done to them what is done here. It's
8 got to be unique because it is a Demonstration
9 Project.

10 I would suggest that before you go
11 any further with what you are doing with this
12 illegal secondary EIS that is not authorized
13 by the law, I would suggest you go back and
14 read the Constitution. I suggest you go back
15 and read Public Law 96-368 and find out what
16 you can do and what you can't do.

17 And the reason I'm suggesting that
18 is this. You have the Coalition in court
19 already with an open ended case because you
20 screwed up. I had to go downtown last week.
21 I'm retired from Bethlehem Steel and you all
22 read it in the paper. They started jerking
23 around with my health benefits and my pension
24 and the rest of that. There is a whole bunch
25 of people out here that have a cause, that

1
2 live in the neighborhood that have a cause to
3 go to Federal Court and ask for an injunction
4 against what you're doing. Do you know what
5 it costs to go to Federal Court? A hundred
6 and fifty dollars plus the cost of serving the
7 papers. I suggest unless you want a whole
8 bunch of lawsuits telling you to stop, you
9 best change your mind what you are doing,
10 because are only supposed to be doing what's
11 underneath Public Law 96-368. That was my
12 principle objection to Unrestricted Site
13 Release.

14 No. 2, I have marked down as no
15 good. Partial site release, again, it's only
16 for the Federal designated site. It does not
17 apply to the rest of the site. That's a whole
18 different ball game. We are going to cross
19 that bridge down the street.

20 Alternative three I also have marked
21 -- where did it go, that's open to objection.
22 That's a Partial Site Release with
23 restrictions. And my objection specifically
24 is, if you are going to open it up, there best
25 not be anything there that's going to hurt a

1
2 human being. So as far as that's concerned,
3 it's another no go unless you can come up with
4 some way that says nobody is going to be hurt
5 by that.

6 Number four, to Monitor and Maintain
7 under current operations, "absitively and
8 posilutely" out. The Public Law 96-368 says
9 you will clean it up and you will get all of
10 the high-level waste out of here. That means
11 out of here. So you're not going to maintain
12 it under current operations. You are going to
13 get that waste out of here. We'll fight with
14 the State about what's going to happen to that
15 land after you are out of here. We will fight
16 with the State over that. But as far as the
17 high-level waste, you are going to get it out
18 of here or going to wind up in court with not
19 just the Coalition but individual lawsuits
20 from individual people.

21 Number five, where did it go, no
22 action, walk away. When I was going to high
23 school, I graduated from Buffalo Technical
24 High School. When I was going high school,
25 some of the socioeconomic things that you are

1
2 seeing around the world today was handled with
3 baseball bats and lead pipes and I'm telling
4 you you're not going to walk away and leave
5 that mess for this community. We can find you
6 one way or another. You're not going to walk
7 away, absolute and positively out. That is
8 not an alternative. I'm glad that you both
9 agree to that. It's not an alternative. As
10 far as NRC is concerned -- and you're only
11 about 10 years too late, we wouldn't have this
12 problem if your office and probably before you
13 got there, we wouldn't have this problem if
14 you would have come up with the regulations
15 that are unique, unique regulations to this
16 site if you would have come up with them 10
17 years ago. Quit smirking. Quit smirking.
18 You know I'm right. All right. Who we got?
19 Paul Giardina, EPA, you weren't even hardly
20 alive -- well, you were, too. You were just
21 in an infancy. You were. You still don't
22 know what you are doing.

23 MR. GIARDINA: I might agree with
24 the latter.

25 MR. PICKERING: Actually,

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seriously, you guys could have got together
years ago and come up with the stuff that
these guys need to get this dirt out of here.
Get this waste out of here. You could have
done it years ago and you didn't do it. Bad,
you're bad, bad news. Tim Rice, what, DEC.
He's a new kid on the block.

MR. RICE: I won't dispute that.

MR. PICKERING: You won't dispute
that. All right. I've got a long and bitter
association with the DEC. It's not only this
-- this facility and you heard things about
the aquifer. There is an aquifer down in
Sardinia that feeds this whole area that you
are talking about, only from a different
tributary. And there is a pond built
underneath the landfill that is fed by four
springs, that they could not stop the water
from coming in. So when you start about
talking about aquifers --

MR. CHAMBERLAIN: Jim, I'm sorry
to interrupt, can you just stay on the topic
on the scoping?

MR. PICKERING: I'm talking about

1
2 the aquifers. When you start talking about
3 aquifers, you got to get down around the
4 Federal area and make sure that when the
5 seepage goes down from all this cleaning, it
6 is not going to go into a surficial aquifer or
7 into an underground aquifer.

8 So there's your three regulatory
9 agencies and I hope you will take advisement
10 and do a lot better job than what you've been
11 doing. Thank you.

12 MR. CHAMBERLAIN: Thank you, Jim.

13 Is there anyone else who would like
14 to make a comment who didn't sign up or we
15 overlooked by accident? No? Okay. I just
16 repeat that this same type of meeting will be
17 repeated tomorrow night. If you know of
18 anyone else who would like to make a comment
19 or to attend and take part, please ask them to
20 show up tomorrow night at 6:00 o'clock. We
21 will be at the same time and same place.
22 Thank you very much.

23 (Whereupon the proceedings were
24 concluded.)
25

C E R T I F I C A T E

I, DOREEN M. SHARICK, do hereby certify that I have reported in stenotype shorthand the proceedings in the Public Scoping Meeting on the Draft Environmental Impact Statement at the Ashford Office Complex, at 9030 Route 219, Ashford, New York, on April 9, 2003.

That the transcript herewith numbered one through sixty-four is a true, accurate and complete record of my stenotype notes.

Doreen M. Sharick

DOREEN M. SHARICK

Notary Public.

'96 [11]	9:13	24:19	50 [1]	53:4	address [4]	6:15	60:20	62:8	62:9	aspects [1]	30:9
25:9	25:12	26:2	51 [2]	2:23	9:13	30:24	54:11	alternatives [21]	4:11	assessed [1]	18:5
26:4	26:17	27:8	585 [1]	1:25	Adjacent [1]	18:7	6:14	9:12	9:13	assessing [1]	49:16
28:3	29:11	29:20	6 [1]	64:20	administristerial [3]	33:7	10:8	10:17	10:18	assessment [2]	35:21
00 [1]	64:20		7 [2]	1:11	33:20	33:17	10:20	11:4	13:25	49:17	
1 [1]	55:10		9 [2]	1:11	adopt [1]	32:21	14:3	14:10	26:12	association [1]	63:12
10 [6]	17:6	26:22	9030 [2]	1:9	adopted [2]	35:23	26:13	26:15	30:10	assume [1]	14:4
36:24	58:21	62:11	942-4900 [1]	22:23	36:12		30:25	35:17	48:15	assumed [1]	5:19
62:16			96-368 [7]	55:9	adopting [1]	36:6	49:16	58:13		assuming [1]	35:22
10734 [1]	2:15		56:3	58:24	adoption [5]	36:3	26:19	40:7		attempt [1]	55:6
11 [1]	16:19		59:15	60:11	36:8	36:13	Amendment [1]	55:2		attempting [1]	35:25
12045 [1]	57:21		61:8		52:25		analysis [7]	13:23		attend [1]	64:19
12046 [1]	58:9		9th [1]	7:20	advantage [1]	45:2	14:18	15:3	15:10	Attorney [1]	33:3
135 [1]	2:20		abandon [2]	48:15	adversely [1]	37:17	15:13	21:22	22:5	attorneys [1]	28:23
13th [1]	3:15		48:23		advertised [1]	54:2	analyze [4]	8:16		authority [11]	3:8
1402 [1]	11:25		abeyance [1]	19:13	advisement [1]	64:9	10:12	14:12	14:25	5:6	16:16
14020 [1]	1:24		Ability [1]	15:5	advisors [1]	40:2	analyzed [1]	26:14		26:20	32:19
1403 [1]	13:7		able [4]	10:16	affect [3]	34:17	analyzing [1]	12:3		48:7	52:8
14055 [1]	2:16		45:6	57:12	37:17	51:20	Anna [2]	2:10	7:7	55:19	
14075 [1]	2:21		above [2]	38:17	again [12]	10:4	Anne [2]	23:25	34:13	authorize [1]	48:4
14226 [1]	2:18		41:24		12:18	13:25	announcement [1]	5:10		authorized [1]	59:12
174 [1]	2:18		absitively [1]	61:7	19:18	21:12	answer [8]	7:3		available [4]	7:9
180 [1]	16:8		absolute [1]	62:7	22:9	24:4	7:9	7:11	8:2	9:10	25:23
1960's [1]	18:13		Accepted [1]	36:23	22:9	24:4	23:7	34:24	41:22	avoid [1]	29:4
1966 [2]	5:7	19:9	access [3]	30:22	34:14	60:15	43:7			avoided [1]	44:7
1970's [1]	18:13		30:22	31:8	against [6]	14:9	answered [1]	28:21		away [7]	11:3
1972 [1]	5:7		accident [1]	64:15	35:18	44:20	answers [1]	33:13		30:14	38:15
1976 [1]	5:10		accompanying [1]	51:25	50:12	60:4	applaud [1]	42:19		62:4	62:7
1980 [3]	5:12	32:21	accomplished [1]	56:17	agencies [12]	3:11	applicable [1]	15:5		awful [1]	13:9
56:7			accordance [1]	11:24	6:10	6:20	application [2]	21:24		background [3]	4:22
1980's [1]	48:17		account [9]	50:10	9:17	9:21	22:6			8:7	17:11
1982 [1]	5:19		50:19	50:22	agencies' [1]	24:14	applied [1]	56:12		bad [3]	63:6
1988 [3]	6:6	8:22	50:25		agency [9]	6:17	applies [5]	13:6		63:7	
47:20			51:3	51:12	9:23	10:3	32:17	34:21	56:21	badly [1]	47:12
1996 [18]	3:23		51:24	52:4	20:11	20:16	56:22			balance [1]	5:24
4:5	4:18	6:8	accurate [1]	65:13	35:23	52:18	apply [6]	35:5		ball [1]	60:18
6:10	9:2	23:13	acquire [1]	36:18	ago [4]	14:16	52:16	58:13	58:14	baseball [1]	62:3
25:3	25:14	30:21	acre [2]	5:4	63:3	63:6	59:3	60:17		based [1]	48:16
42:14	48:12	48:18	acres [1]	5:20	agree [3]	48:9	applying [1]	35:7		basis [1]	14:8
48:21	49:3	49:10	acronyms [2]	3:10	62:23		approach [1]	4:14		Batavia [1]	1:24
50:2	50:4		47:2		agreed [2]	23:20	appropriate [2]	35:9		bats [1]	62:3
1st [1]	56:7		act [15]	6:12	48:8		36:10			bear [1]	43:15
2 [3]	29:12	29:12	8:10	8:11	agreement [3]	21:5	April [5]	1:11	7:20	beautiful [2]	38:23
60:14			32:21	45:14	21:8	47:15	15:18	15:25	65:11	39:9	
20 [3]	11:25	13:7	47:5	48:3	Aha [1]	40:13	aquifer [4]	63:14		becomes [2]	46:7
26:22			53:17	55:10	air [2]	41:17	63:14	64:6	64:7	57:13	
200 [1]	5:20		58:18		alas [2]	39:18	aquifers [3]	63:21		bed [1]	41:14
2001 [4]	4:4	9:4	acting [1]	3:5	alive [1]	62:20	64:2	64:3		bedrock [1]	51:4
25:5	25:8		action [8]	9:6	ALLEN [1]	54:6	Arcade [2]	2:23		beg [1]	44:22
2002 [1]	9:15		11:3	13:19	allow [2]	38:2	54:12			began [3]	6:2
2003 [4]	3:15	7:20	34:16	35:7	53:17		area [16]	16:25	17:20	19:9	39:5
16:6	65:11		61:22		allowing [1]	37:16	17:21	17:24	18:3	begin [1]	7:12
2004 [1]	16:10		actions [12]	7:5	allows [4]	37:23	18:9	18:10	18:11	beginning [1]	23:15
2003 [1]	1:11		8:16	13:14	38:4	38:8	18:16	19:17	19:22	behalf [1]	16:18
21 [1]	1:23		22:18	25:7	along [1]	15:10	22:7	51:8	58:5	behind [1]	26:13
219 [2]	1:9	65:10	25:11	27:16	alternative [31]	9:3	63:15	64:4		believes [1]	38:13
28th [2]	15:18	16:2	33:8	33:21	11:11	11:15	areas [7]	16:23	17:17	belongs [1]	58:7
2A4 [1]	52:15		activities [4]	14:4	12:13	12:15	18:19	18:22	20:22	Bembia [6]	2:7
3,300 [1]	17:12		17:8	22:17	13:8	13:18	22:13	50:15		6:22	7:7
3,345 [1]	5:4		actual [1]	50:13	13:22	14:8	Ashford [8]	1:8		16:13	16:14
343-8612 [1]	1:25		addition [3]	8:7	29:12	29:19	1:10	7:20	7:21	benefits [1]	59:23
380 [1]	19:21		17:5	19:24	29:22	29:25	17:13	42:13	65:9	best [3]	15:25
45 [1]	15:19		additional [1]	8:7	30:18	31:6	65:10			60:9	
			Additionally [1]	58:25	31:10	48:15	aside [2]	19:13	56:13		
					48:24	58:9					

60:24	48:14	48:23	49:22	cleaning [1]	64:5	completed [3]	8:13	13:16	15:23	43:11
Bethlehem [1]	59:21	56:4	56:23	Cleanup [1]	47:18	21:19	56:8	44:17		
better [2]	26:7	capable [1]	35:22	clear [3]	27:9	completes [1]	22:3	continued [1]		13:13
64:10		Capen [1]	2:18	43:24		completion [4]	3:24	continues [1]		36:15
between [4]	26:3	capture [1]	50:18	clearly [4]	23:14	4:11	6:3	continuing [1]		25:16
33:16	56:7	carefully [1]	42:21	33:8	34:9	complex [5]	1:8	contract [3]		37:13
beyond [1]	15:21	Carol [4]	2:15	climate [1]	51:25	7:20	58:14	56:7	56:24	
big [1]	8:12	37:5	37:10	close [1]	53:25	65:10		contractors [1]		21:8
bit [4]	17:18	carrying [1]	39:19	closely [1]	28:24	comply [1]	15:5	contracts [3]		56:10
20:14	31:25	case [8]	13:11	closure [6]	3:25	compromised [1]	47:11	56:14	56:21	
bitter [1]	63:11	13:23	14:3	4:12	6:4			contrary [1]		36:21
black [1]	40:21	49:18	58:20	26:8	47:18	concepts [4]	10:11	control [5]		5:19
block [1]	63:8	59:19		Coalition [5]	37:14	10:14	30:8	5:23	12:9	12:20
blue [8]	18:8	Cattaraugus [2]	17:13	38:13	48:8	concern [3]	28:25	17:25		
38:25	39:24	51:19		61:19		35:24	57:22	cooperating [3]		6:19
40:6	40:7	Center [18]	3:22	colloquium [2]	41:9	concerned [5]	36:14	9:17	24:3	
blueberries [1]	39:4	4:3	5:4	41:10		58:12	58:24	copies [1]		23:16
body [1]	41:16	5:23	6:6	coming [1]	63:20	62:10		copy [1]		23:17
Boulevard [1]	2:18	13:4	13:12	comment [38]	3:24	concerns [2]	36:22	correct [4]		25:17
Box [2]	2:23	16:22	17:11	6:8	9:10	42:21		27:21	27:25	30:7
boxes [1]	40:21	17:16	19:7	16:7	36:20	concluded [1]	64:24	cost [3]	17:6	21:6
Bradford [4]	2:10	22:12	46:16	47:23	48:6	Concord [2]	2:16	60:6		
7:7	32:2	certain [1]	8:11	48:14	48:20	17:15		costs [5]	15:2	15:3
break [1]	3:14	certainly [3]	24:8	49:14	49:15	concrete [4]	38:16	44:7	46:8	60:5
breaking [1]	37:13	33:9	34:7	50:8	50:11	39:17	39:17	counsel [1]		34:19
breath [2]	24:16	certification [1]	8:14	50:20	50:23	conduct [4]	5:14	country [3]		44:6
41:25		certify [1]	65:6	51:6	51:11	5:21	19:14	56:23	59:4	
breathe [1]	58:5	cetera [1]	50:10	51:23	52:3	conducted [1]	36:8	County [4]		17:13
bridge [1]	60:19	CFR [3]	11:25	52:20	52:24	conducting [2]	14:5	17:15	52:7	52:8
brief [1]	7:3	26:22		53:7	53:11	18:2		couple [4]		9:9
bring [2]	10:6	Chamberlain [26]		53:23	54:8	confluence [1]	51:9	16:20	18:18	25:23
bringing [1]	45:16	2:2	3:2	64:18		confusion [1]	46:3	course [3]		38:25
broad [1]	32:8	23:6	24:20	commented [1]	38:10	Congress [11]	5:12	40:16	42:2	
Brook [2]	51:10	28:11	28:14	commentor [3]	37:4	8:9	32:19	court [9]	1:21	1:22
51:21		29:7	29:17	42:4	46:23	43:6	55:15	37:15	37:16	57:5
brought [1]	46:9	31:15	31:24	comments [18]	4:13	55:19	55:21	59:18	60:3	60:5
Buffalo [5]	2:18	34:2	34:5	4:17	4:21	56:5		61:18		
42:10	51:13	36:23	37:3	15:21	16:2	Conservation [5]		cover [4]	27:18	27:23
61:23	52:9	46:23	53:21	24:9	36:21	6:19	9:25	30:4	30:5	
Buffalo's [1]	52:9	63:22	64:12	48:21	49:2	20:12	22:15	coverage [2]		36:10
buildings [1]	11:19	change [11]	37:23	49:5	49:9	consider [6]	9:5	covered [5]		27:23
built [1]	63:17	38:3	45:22	49:12	50:3	15:21	26:11	28:8	39:16	56:5
bunch [2]	59:24	55:16	55:18	commercial [2]	5:8	35:16	44:8	56:6		
60:8		56:4	56:18	18:11		considered [12]	4:18	covers [5]		20:19
burden [10]	42:17	60:9	56:23	commission [9]	6:16	6:24	10:21	20:20	20:22	20:23
43:4	43:16	changed [1]	45:24	19:9	20:10	14:18	16:3	21:3		
44:25	45:8	changes [3]	50:4	34:25	35:3	27:16	28:3	create [3]		46:2
45:12	45:18	50:13	50:15	35:12	47:3	31:2	31:21	49:23	57:4	
46:7		changing [1]	56:20	commission's [1]		considering [4]	11:9	created [1]		55:17
bureaucratic [1]	43:20	characteristics [1]		33:8		12:3	14:12	creating [1]		53:8
burial [2]	12:14	45:25		committed [1]	44:20	constituents [2]	20:2	Creek [7]		51:7
12:18		checklist [1]	32:7	Common [1]	57:5	56:12	56:19	51:9	51:10	51:10
buried [2]	40:8	chemical [1]	45:12	commonly [1]	16:16	59:14		51:19	51:21	51:22
46:5		children [1]	43:18	Communications [2]		constitutional [4]		crisis [2]	57:4	57:14
burying [1]	45:15	choices [1]	43:9	2:3	3:4	55:14	56:9	criteria [7]		9:22
bus [1]	47:8	choose [4]	43:9	community [4]	42:9	57:14		11:25	13:6	26:9
Buttermilk [3]	51:7	43:13	43:18	42:18	46:10	contact [2]	22:20	27:9	38:7	54:18
51:9	51:21	church [1]	42:9	company [1]	5:7	22:22		cross [3]	18:8	50:14
byproduct [1]	5:17	citizen [2]	42:8	compare [3]	10:16	content [2]	4:14	60:18		
C [2]	65:3	57:16		13:25	14:2	34:22		current [4]		11:2
calendar [1]	47:20	Citizens [4]	42:13	compared [1]	14:10	context [1]	4:24	46:13	61:7	61:12
calibrated [1]	50:12	42:14	42:19	compares [1]	35:14	continuation [3]		Dam [1]	51:18	
Canada [1]	52:11	civilization [1]	45:3	competing [1]	49:19	4:8	25:11	Dan [9]	6:21	8:2
cannot [6]	48:11	clarify [3]	7:4	complained [1]	39:6	continue [5]	6:9	8:3	20:16	23:22
		24:5	31:25	complete [3]	8:12					
		clause [1]	56:10	11:7	65:13					
		clean [2]	29:13							

28:12 28:20 31:19	5:13 6:18 8:4	25:8 25:10 25:22	effluent [1] 41:18	environmental [28]
31:19	9:20 9:24 17:25	27:7 27:17 30:19	effort [2] 6:6	1:6 3:18 4:9
DANIEL [1] 2:5	18:20 19:14 19:19	50:7	42:16	6:11 6:13 6:17
dank [1] 41:18	20:12 20:17 21:5	DOE [37] 2:5	Eggertsville [1] 42:10	6:18 6:23 9:23
dark [1] 39:12	22:15 46:14 47:2	4:4 4:6 4:9	eight [1] 54:14	9:25 10:2 18:5
darkened [1] 41:14	55:13 55:17 56:2	5:19 5:24 6:2	eighteenth [1] 51:16	18:24 19:20 20:4
Darrigo [15] 24:17	58:2 58:16 58:19	6:9 6:11 6:21	eighth [1] 49:15	20:10 20:12 20:18
24:22 24:23 25:15	descendants [1] 43:12	8:9 8:20 13:24	EIS [85] 3:19 3:23	21:22 22:5 22:15
25:18 26:16 26:21	described [1] 26:8	19:2 21:8 21:19	4:5 4:6 4:15	35:9 35:15 35:19
27:2 27:11 27:14	describing [3] 27:5	22:3 30:22 31:21	4:19 4:20 5:2	35:20 47:4 47:5
27:18 27:22 29:9	31:5 31:14	35:17 38:9 42:20	6:3 6:7 6:11	65:9
29:21 30:3	designated [1] 60:16	46:16 46:20 47:2	6:21 6:25 7:5	EPA [4] 2:12 7:8
date [1] 54:18	detail [2] 14:15	48:7 48:11 48:14	8:6 8:15 8:23	9:23 62:19
days [2] 15:19 16:9	24:11	48:23 48:25 49:11	9:7 9:7 9:22	Erdman [2] 51:9
deal [2] 28:13 28:19	detailed [3] 24:7	49:16 49:22 53:19	10:12 10:13 10:15	Eric [3] 17:15 52:7
DEC [2] 63:7 63:12	49:9 49:10	56:8 56:24 58:20	10:21 11:5 11:9	52:8
December [2] 6:6	determine [4] 57:6	DOE's [2] 35:22	14:12 15:4 16:4	erodibilities [1] 51:4
16:6	57:10 57:11 57:18	49:20	20:13 20:15 20:17	erosion [10] 50:8
decent [1] 31:13	determines [4] 57:23	doesn't [4] 23:18	21:3 21:7 21:10	50:12 50:18 50:21
decide [1] 35:5	57:24 58:3 58:6	27:18 55:16 57:23	21:15 22:17 23:14	50:24 51:3 51:7
decided [2] 4:4	developed [4] 4:6	dollars [1] 60:6	24:13 24:19 25:2	51:12 51:17 51:24
39:9	5:2 10:15 48:17	done [10] 8:15 8:19	25:5 25:6 25:12	especially [2] 44:21
decision [20] 10:16	development [4] 16:15	24:8 25:2 55:19	25:22 25:25 26:2	49:18
10:19 14:23 16:10	3:8 5:6 16:15	56:4 59:4 59:7	26:11 26:16 27:3	ESQ [1] 2:9
31:23 32:9 32:13	24:4	59:7 63:6	28:3 28:8 29:4	essentially [2] 9:18
33:24 43:19 43:24	Diane [2] 24:22	DOREEN [3] 1:21	29:11 30:3 34:10	14:6
44:23 44:24 49:25	29:8	65:6 65:18	35:21 35:22 36:2	establish [1] 4:24
52:21 53:2 53:4	died [4] 38:24 39:15	dose [2] 49:21 52:4	36:3 36:8 36:16	establishing [1] 34:25
53:6 53:8 53:10	39:19 39:24	down [15] 3:13	37:21 38:6 38:10	et [1] 50:9
53:12	difference [1] 33:19	7:25 11:12 24:16	47:4 47:18 47:19	evaluate [2] 6:14
decisions [3] 21:11	different [5] 17:17	29:23 32:7 39:16	48:8 48:12 48:13	47:15
32:5 52:17	36:13 51:4 60:18	41:25 54:16 58:10	48:17 48:19 48:21	evaluated [1] 7:6
decommission [1] 46:15	63:16	60:14 60:19 63:14	49:2 49:4 49:4	evaluation [1] 31:3
decommissioned [1] 12:24	differently [1] 46:2	64:3 64:5	49:7 49:24 50:2	evening [3] 3:9
decommissioning [19] 1:5 3:19 4:25	diffuse [1] 45:12	downcutting [1] 51:19	50:3 50:4 50:5	25:21 42:6
8:17 21:17 22:10	dig [2] 29:23 40:14	downtown [1] 59:20	55:11 59:12	events [1] 52:2
25:7 25:11 25:15	diggers [1] 41:4	Dr [1] 16:20	EIS's [2] 28:4	eventually [2] 39:5
25:25 26:23 28:6	directed [2] 8:10	draft [31] 1:6	29:5	46:18
32:23 35:18 47:24	33:12	3:23 4:5 4:19	either [4] 34:19	everybody [1] 29:18
48:4 52:15 52:22	directing [1] 5:13	6:7 6:10 6:25	35:20 41:7 41:12	evidence [1] 46:11
54:18	direction [3] 21:16	9:2 9:13 16:4	element [1] 32:9	exactly [2] 45:6
deep [1] 24:16	22:10 34:12	16:8 23:13 23:16	eleventh [1] 50:11	56:4
deeply [1] 42:8	direction [3] 21:16	25:2 25:9 26:4	eliminated [1] 31:2	example [2] 32:8
defacto [3] 56:16	directly [1] 34:10	27:8 28:3 29:20	encourage [1] 46:3	49:19
56:16 56:21	dirt [1] 63:4	48:12 48:12 48:19	encroached [1] 55:2	exceeded [1] 55:13
defines [1] 58:18	discretionary [15] 31:23 32:3 32:4	48:21 49:4 49:4	end [6] 15:18 15:21	except [1] 12:7
definitely [1] 34:11	32:10 32:12 32:16	49:10 50:2 50:3	16:10 26:8 47:19	exception [2] 12:13
democracy [1] 43:2	33:5 33:7 33:16	50:4 50:5 65:8	47:20	19:7
demonstrated [1] 42:23	33:22 52:21 53:2	drink [1] 58:5	ended [1] 59:19	excuse [2] 28:14
Demonstration [31] 2:3 2:6 3:20	53:5 53:9 53:12	drinking [1] 52:11	Energy [18] 3:7	32:22
3:25 4:23 5:14	disposal [15] 11:19	Drive [1] 1:23	3:8 3:17 5:5	executive [2] 55:24
6:4 8:11 8:24	12:7 12:18 16:25	dug [3] 39:13 41:4	5:13 8:4 16:15	56:5
17:7 17:9 17:19	18:10 18:10 18:11	41:5	17:25 18:21 19:14	exercise [3] 32:6
18:2 18:7 18:21	19:17 19:21 22:7	dumped [1] 45:3	20:17 21:6 46:15	36:5 43:22
19:3 19:15 20:3	22:13 30:15 47:16	during [2] 7:25	47:3 56:3 58:3	exhume [2] 46:5
20:20 20:23 21:4	52:14 52:17	16:3	58:16 58:19	46:16
21:20 21:25 32:20	disposed [2] 30:23	dying [3] 39:6	enforceable [1] 56:9	exist [1] 55:20
48:3 52:16 53:16	31:9	39:25 41:14	enforced [1] 56:25	expect [1] 15:6
55:10 58:17 59:5	disposition [1] 15:11	E [3] 1:22 65:3	engage [1] 47:24	expected [1] 52:5
59:8	dispute [2] 63:9	65:3	engineers [1] 40:25	expertise [4] 9:19
department [25] 2:3	63:10	e-mail [1] 22:23	English [2] 9:18	10:5 33:23 36:16
3:4 3:7 3:17	distinction [1] 33:16	easier [2] 12:17	11:13	explain [2] 3:14
	distrustful [1] 46:4	45:11	Ensure [1] 46:7	6:24
	doctors [1] 41:15	East [2] 2:16 2:20	entire [3] 5:23	explicit [3] 52:18
	document [11] 2:5	easy [1] 12:5	19:7 20:21	
	8:15 9:6 21:9	eat [1] 39:4	entitled [1] 58:20	
		EDITH [1] 1:22	environment [3] 14:22	
			34:17 37:18	

52:23 53:14	57:8	64:5	herewith [1]	65:12	61:20
explicitly [1] 50:6	five [5] 7:15 11:3	golden [1] 38:23	hidden [2] 40:17	individually [2] 49:6	
exposed [1] 52:6	54:23 54:25 61:21	good [6] 30:8 42:6	54:19	49:7	
exposure [1] 58:22	focus [3] 4:10 27:9	42:24 45:14 58:10	hide [1] 39:11	individuals [1] 7:13	
expression [1] 26:7	34:8	60:15	hiding [1] 39:20	inexpensive [1] 30:22	
extent [1] 15:22	focused [1] 4:6	good-bye [1] 39:14	high [5] 37:25 49:20	infancy [1] 62:21	
F [1] 65:3	folks [3] 10:9 23:10	government [6] 43:7	61:22 61:24 61:24	information [5] 14:24	
fable [1] 38:21	23:20	45:11 45:14 45:19	high-level [4] 5:15	22:21 22:24 22:25	
facilities [12] 3:11	follow [2] 16:7	46:11 55:8	53:17 61:10 61:17	23:3	
4:2 11:19 12:22	16:8	grab [1] 23:19	hill [1] 51:14	informed [1] 10:19	
12:23 12:25 13:12	Following [2] 5:9	gradient [1] 51:20	hired [1] 58:2	ingredient [1] 26:10	
17:22 18:4 19:2	7:11	graduated [1] 61:23	history [1] 27:6	initiate [1] 47:19	
19:16 22:11	follows [1] 8:2	grandfather [1] 40:13	holding [1] 37:12	initiated [1] 48:16	
facility [4] 5:9	FORBES [1] 1:22	graph [2] 15:14	hole [1] 39:13	injunction [1] 60:3	
11:17 18:12 63:13	Force [4] 42:13	16:11	Hollow [1] 7:21	instance [4] 30:12	
fact [1] 29:5	42:14 42:19 46:21	grapple [1] 43:4	honor [1] 46:20	38:16 43:24 46:12	
facts [5] 45:24 57:6	forcing [1] 37:14	grave [2] 39:20 44:20	hope [3] 3:12 46:14	instances [1] 30:11	
57:10 57:11 57:18	form [5] 30:2 33:21	gravel [1] 51:5	64:9	intending [1] 13:24	
fail [4] 44:13 44:14	38:16 45:7 46:18	great [3] 40:4 40:12	hopes [1] 23:21	intense [1] 52:2	
44:15 44:19	formations [1] 50:24	40:12	hoping [1] 40:11	intent [12] 3:17	
fails [1] 54:17	forward [2] 4:19	green [2] 17:20 18:18	huge [2] 44:7 45:2	5:11 14:14 16:5	
failure [1] 49:19	24:6	grew [1] 41:13	human [1] 61:2	21:19 22:3 30:24	
fairly [1] 32:8	found [1] 45:5	grieving [1] 55:7	humanity [1] 44:20	31:13 47:10 47:13	
faith [2] 42:24 45:14	four [3] 47:2 61:6	ground [4] 29:16	humans [1] 44:17	47:14 48:2	
familiar [2] 33:5	63:18	38:17 41:24 44:15	hundred [3] 55:12	interim [3] 15:11	
33:6	fourteen [1] 50:23	grounds [2] 12:14	58:21 60:5	30:11 30:16	
far [7] 53:24 58:4	fourth [3] 13:8	12:18	hundreds [3] 43:13	interject [1] 34:6	
58:12 58:23 61:2	frame [2] 16:2	groups [1] 49:12	43:13 44:18	intermediate [1] 50:7	
61:16 62:10	27:6	guess [2] 10:13 26:6	hung [1] 41:17	interrupt [1] 63:23	
fashionable [1] 39:3	Frank's [2] 51:10	gully [1] 50:24	hurt [2] 60:25 61:4	inverse [1] 56:22	
favorable [1] 48:23	51:21	guys [2] 63:2 63:4	Idaho [1] 58:20	invited [1] 9:20	
feasibility [1] 47:16	free [4] 22:20 22:22	Hamburg [1] 2:21	ignore [1] 38:9	involve [1] 53:5	
February [1] 9:15	23:19 36:20	handle [3] 39:23	illegal [1] 59:12	involved [7] 10:3	
fed [1] 63:18	friends [1] 58:22	45:11 46:2	illustrate [1] 10:11	32:6 32:10 42:9	
federal [13] 3:16	front [2] 23:9 23:21	handled [2] 45:8	illustration [2] 11:15	47:14 52:14 52:22	
5:13 34:16 35:6	fuel [1] 5:8	62:2	13:11	involves [2] 33:9	
43:6 43:8 45:13	fulfilled [1] 9:21	hands [1] 58:2	impact [13] 1:6	35:10	
45:18 46:11 60:3	fulfilling [1] 45:19	happy [1] 3:14	3:18 4:9 18:5	irrelevant [1] 45:23	
60:5 60:16 64:4	full [5] 32:19 46:6	hard [1] 42:15	20:19 21:22 22:5	irretrievable [1] 38:15	
feedback [3] 11:6	52:18 52:23 53:13	hardly [1] 62:19	35:13 35:14 35:19	irrevocably [1] 37:17	
11:8 26:15	funds [1] 17:5	hatched [1] 18:9	36:12 47:4 65:9	issuance [5] 16:8	
feeds [1] 63:15	future [1] 46:12	hazardous [3] 19:25	14:21 49:16	31:22 32:11 33:10	
few [5] 8:8 16:23	game [3] 38:5 38:8	19:25 20:6	impacts [3] 14:9	34:14	
17:16 23:21 24:18	60:18	head [1] 55:17	14:21 49:16	issue [7] 15:8 16:4	
fifteenth [1] 51:2	gaps [1] 49:23	heads [7] 40:3	implement [1] 13:21	29:2 43:3 44:11	
fifth [2] 13:18 48:14	general [1] 22:25	40:19 41:3 41:6	implementing [1] 13:22	44:11 44:12	
fifty [1] 60:6	generally [1] 48:22	41:12 41:15 41:16	important [3] 25:13	issued [6] 6:7	
fight [2] 61:13 61:15	generated [1] 47:17	healed [1] 46:21	26:5 30:20	8:25 9:15 19:22	
final [12] 26:5 27:9	generations [1] 37:19	health [1] 59:23	35:13 35:14 35:19	26:5 54:18	
31:22 32:12 34:15	generic [3] 35:14	hear [5] 3:10 3:12	36:12 47:4 65:9	issues [3] 4:10	
36:4 36:6 36:19	35:18 49:11	23:10 37:6 37:8	impacts [3] 14:9	14:17 14:23	
49:2 49:7 49:24	Giardina [4] 2:12	heard [3] 20:8 29:18	14:21 49:16	item [2] 54:16 55:10	
52:25	7:8 62:19 62:23	63:13	implement [1] 13:21	items [2] 7:4 54:14	
Finally [1] 41:8	Gifford [4] 2:17	hearing [3] 37:11	13:22	itself [2] 35:6 45:4	
financial [2] 43:15	42:5 42:6 42:7	38:10 38:12	important [3] 25:13	JAMES [2] 2:9	
44:7	given [2] 32:10 32:19	hearings [2] 38:20	26:5 30:20	2:22	
fine [1] 24:11	glad [1] 62:8	38:20	35:13 35:14 35:19	jerking [1] 59:22	
firing [1] 18:23	Gladys [3] 2:17	heavens [1] 41:20	36:12 47:4 65:9	Jim [6] 33:2 34:13	
firmly [1] 46:12	42:5 42:7	heed [1] 42:22	51:7	35:25 54:10 63:22	
first [15] 11:10 11:12	goal [3] 16:4 16:7	held [4] 3:6 4:13	included [1] 30:10	64:12	
11:15 12:6 16:23	goes [3] 11:11 58:25	7:19 38:17	including [5] 11:18	job [3] 31:13 39:23	
17:18 20:15 21:11		help [1] 10:11	15:11 49:3 50:15	64:10	
30:12 31:21 37:4		hereby [1] 65:6	52:6	John [6] 2:2 3:3	
42:3 47:9 55:2			incorporated [1] 27:7	8:4 8:7 8:21	
			incorrectly [1] 47:12		
			increase [1] 51:25		
			indefinitely [1] 31:9		
			Indians [1] 52:7		
			individual [2] 61:19		

9:4	leaders [5]	43:22	34:23	36:11	15:16	23:15	25:21	30:3	32:2	32:14
joint [4] 4:9 6:10	44:3 44:8 44:22	44:22	looks [2] 11:14 13:9	13:9	25:24 26:14 34:20	53:24 64:16 65:8	54:6	37:7 37:10 42:6		
8:20 20:16	46:4		loss [1] 51:13		meetings [1] 42:12			Municipal [1] 52:10		
jointly [2] 6:2	leading [1] 51:18		lost [2] 28:8 58:19		mentioned [5] 8:5			must [17] 48:13		
8:19	learned [1] 41:15		louder [2] 39:7		8:21 9:4 20:16			50:5 50:9 50:12		
judges [2] 57:7	least [3] 19:10 29:25		low [1] 47:16		23:12			50:18 50:21 50:24		
57:15	51:8		lumped [1] 49:11		mess [1] 62:5			51:3 51:7 51:12		
judgment [6] 32:6	leave [2] 29:16 62:4		M [3] 1:21 65:6		might [5] 12:17			51:17 51:24 52:18		
32:9 33:9 33:22	legal [2] 33:4 34:19		65:18		24:5 36:12 49:5			52:22 53:19 56:8		
33:23 36:6	legislation [1] 5:12		Main [1] 2:20		62:23			56:25		
jumping [1] 49:25	lesson [1] 46:8		maintain [4] 11:2		mind [3] 37:5 46:13			name [9] 16:13 24:21		
juries [1] 57:6	letters [1] 57:8		13:9 61:6 61:11		60:9			24:22 28:15 28:16		
jurisdiction [2] 9:20	level [3] 37:25 47:16		maintained [2] 5:22		minimum [1] 58:22			32:25 37:10 37:23		
10:5	49:20		13:14		minor [1] 18:22			42:7		
jury [1] 57:17	license [18] 11:25		maintenance [2] 14:6		minute [2] 14:16			names [1] 41:2		
justice [1] 43:25	13:5 19:10 19:11		51:14		21:2			nanojuries [2] 58:21		
justified [1] 50:5	19:12 19:18 21:15		major [5] 12:23		minutes [5] 7:15			58:22		
keep [3] 40:22 45:18	21:21 21:23 22:4		19:16 34:15 35:6		24:18 36:24 54:24			narrowing [1] 27:19		
49:13	22:6 22:9 32:15		51:8		54:25			Nation [2] 52:7		
keeper [1] 40:19	35:4 35:5 35:7		majority [3] 17:21		mispronounce [1] 23:25			56:21		
keeping [1] 45:16	53:5 53:8		18:4 38:11		misrepresents [1] 47:10			National [2] 6:11		
kept [1] 41:23	licensed [1] 19:8		maker [1] 10:16		mistake [1] 54:16			47:5		
key [3] 14:20 15:8	licensee [1] 35:3		makers [1] 14:23		mistakes [2] 54:15			nature [1] 14:7		
26:10	licenses [1] 32:17		makes [3] 45:4		54:20			near [1] 41:16		
kid [1] 63:8	licensing [1] 52:17		54:15 55:22		misunderstanding [1] 33:15			near-term [1] 4:6		
king [5] 38:22 38:25	Lieberman [5] 2:9		man [2] 40:10 40:15		model [1] 42:25			necessarily [1] 30:5		
39:4 39:9 39:18	33:2 33:3 33:20		manage [3] 16:23		modeling [10] 50:9			necessary [3] 13:15		
kingdom [1] 39:22	34:24		16:24 16:25		50:12 50:18 50:21			55:22 55:24		
kissed [1] 39:14	lifeless [1] 41:16		managed [7] 5:5		50:24 51:3 51:7			need [5] 22:20 35:12		
knew [1] 40:4	lifetimes [1] 43:17		12:8 13:13 18:14		51:12 51:17 51:24			35:16 36:3 63:4		
knowledge [1] 39:19	likewise [1] 53:13		18:20 19:2 21:13		moderator [1] 3:5			needed [2] 33:23		
known [3] 16:16	limit [2] 54:23 55:6		management [17] 4:2 4:7 4:15		modern [1] 45:3			36:17		
17:2 45:4	limited [3] 54:25		6:5 8:25 9:5		modes [1] 49:19			needs [1] 36:19		
label [1] 45:23	55:21 56:3		15:12 16:19 21:6		modified [1] 9:12			neighborhood [1] 60:2		
lack [1] 26:7	lined [1] 24:14		21:17 22:11 23:4		moment [2] 6:21			60:2		
laid [2] 39:13 42:18	liquid [2] 5:17		25:7 25:10 25:19		17:4			NEPA [10] 9:6		
Lake [1] 52:12	list [2] 14:17 14:19		27:15 28:7		Mongerson [5] 2:15			9:25 25:22 27:7		
land [5] 43:25 44:22	listed [1] 54:13		Manager [5] 2:5		37:4 37:7 37:10			36:10 36:18 47:5		
45:4 46:21 61:15	listen [1] 42:21		6:22 6:23 8:5		37:11			52:18 52:23 53:14		
landfill [1] 63:18	lists [2] 49:2 54:22		16:14		monitor [5] 10:25			never [1] 42:2		
language [1] 49:13	live [4] 42:9 44:17		manages [2] 18:17		13:8 17:8 44:17			new [40] 1:10 1:24		
large [1] 43:15	58:6 60:2		21:8		61:6			2:16 2:18 2:21		
larger [1] 44:6	located [5] 17:12		manner [1] 47:22		monitored [2] 13:14			2:23 3:7 3:21		
last [6] 15:14 16:11	17:14 17:22 18:6		March [1] 3:15		38:18			4:2 4:5 5:3		
41:21 41:25 53:15	51:15		margin [1] 54:19		monitoring [3] 6:23			5:4 5:5 5:20		
59:20	locations [2] 18:25		marked [4] 54:16		14:6 18:25			5:22 6:5 6:18		
late [2] 24:18 62:11	31:8		58:10 60:14 60:20		months [1] 42:23			7:21 9:24 16:15		
latter [1] 62:24	logic [1] 49:23		mass [2] 50:9 50:16		moral [1] 44:11			16:17 16:18 16:21		
laughed [1] 40:16	long-term [19] 1:5		materials [3] 19:24		mortal [1] 39:19			19:19 20:11 20:21		
law [15] 9:20 10:5	3:19 3:25 4:10		20:6 46:17		mothball [1] 43:10			22:14 25:19 27:3		
55:9 55:15 55:25	4:25 6:4 8:17		mausoleum [1] 46:6		mothballed [1] 44:5			35:2 41:2 42:12		
56:3 56:13 56:15	8:25 14:5 14:21		may [4] 30:15 34:16		mourned [1] 41:17			43:12 48:12 49:4		
57:6 58:24 58:25	15:2 15:8 15:10		49:11 57:14		mourners [1] 41:17			50:2 53:8 54:12		
59:13 59:15 60:11	21:17 22:11 28:6		mean [3] 32:3 33:18		move [4] 4:19 35:19			63:8 65:10		
61:8	47:25 48:5 51:19		56:16		44:4 44:16			news [1] 63:7		
laws [3] 55:21 55:22	longer [4] 14:20		means [3] 14:3		moved [1] 46:19			next [4] 9:9 25:23		
56:20	31:7 31:10 40:20		56:17 61:10		Ms [21] 7:7 24:17			42:4 46:23		
lawsuits [2] 60:8	look [7] 10:10 12:21		meant [1] 24:7		24:22 25:15 25:18			Niagara [1] 52:12		
61:19	14:13 31:5 31:12		measured [1] 50:13		26:16 26:21 27:2			night [4] 15:16 39:12		
lawyers [1] 57:7	39:4 44:4		meet [1] 38:2		27:11 27:14 27:18			64:17 64:20		
lay [1] 41:13	looked [3] 28:24		meeting [16] 1:7		27:22 29:9 29:21			nine [1] 57:15		
lead [6] 6:10 8:20	41:5 41:5		3:6 4:12 4:16					nineteenth [1] 51:23		
20:16 23:23 49:24	looking [6] 21:16		7:19 7:22 9:8					ninth [1] 49:22		
62:3	22:9 25:6 32:7							nobody [3] 40:8		
								59:6 61:4		
								north [4] 12:10 12:23		

13:2	42:10	October [1]	56:7	57:20	58:9	11:12	11:21	practical [1]	15:22							
Notary [1]	65:19	off [2]	30:14	49:25	paper [3]	38:3	49:23	precedent-setting [1]	44:4							
note [2]	3:13	off-site [1]	4:7	59:22	papers [1]	60:7	pieces [2]	28:10	37:22							
notes [1]	65:14	offer [1]	36:16	paraphrased [2]	47:12	47:22	pipes [1]	62:3	preferred [1]	9:2						
Nothing [1]	28:8	office [6]	1:8	part [17]	11:5	15:3	piping [1]	50:21	premises [7]	5:25						
notice [12]	3:15	2:23	7:20	15:9	15:13	17:7	piracy [1]	50:19	17:3	17:19	18:8					
14:14	14:19	62:12	65:9	19:20	20:23	21:15	Pittsburgh [1]	51:13	18:17	18:23	21:12					
30:24	31:13	official [3]	7:18	26:24	27:22	28:7	pjb@nyserda.org [1]	22:23	preparation [3]	16:3	21:7	21:9				
47:13	47:13	15:17	53:24	36:15	47:13	53:4	place [8]	12:24	15:17	prepare [2]	3:18	10:18				
54:17	57:21	old [4]	25:16	41:13	57:16	53:9	30:12	39:20	42:3	Presbyterians [1]	42:11					
now [22]	7:16	oldest [1]	40:10	partial [7]	10:23	10:24	44:16	48:10	64:21	presentation [1]	7:24					
10:14	18:18	once [2]	29:15	10:24	12:3	12:15	plain [1]	11:13	plan [1]	6:13	presentations [3]	4:20	7:2	55:5		
25:13	26:4	one [29]	8:12	14:19	60:15	60:22	plastic [1]	40:21	Plateau [3]	12:11	presented [1]	48:18				
26:10	26:18	12:6	12:13	23:19	24:25	27:7	play [2]	38:4	38:8	plus [1]	60:6	preserved [1]	30:19			
27:10	28:3	24:13	24:19	24:25	25:16	25:19	point [2]	23:19	49:25	pointed [1]	23:14	President [1]	55:15			
31:7	37:20	27:20	28:4	29:10	29:15	30:4	points [2]	8:8	26:8	poison [1]	43:11	pretty [1]	33:21			
39:23	55:9	29:15	30:4	39:12	39:12	40:5	poisons [1]	44:15	6:12	policy [15]	9:14	prevention [1]	19:23			
57:3	58:12	39:12	40:5	43:20	44:25	45:9	politely [1]	40:16	43:20	9:14	13:7	primarily [1]	17:12			
NRC [26]	2:9	44:25	45:9	54:3	54:15	55:11	political [7]	44:8	44:11	26:11	31:22	prime [1]	49:19			
2:10	7:7	54:15	55:11	57:25	58:9	62:6	43:22	44:3	44:23	33:10	34:15	principle [1]	60:12			
21:15	21:21	58:9	62:6	65:12	ones [3]	8:13	44:11	44:23	46:13	36:6	36:19	private [3]	5:7			
26:5	26:18	32:5	29:24	37:24	onsite [4]	20:6	45:25	63:17	39:10	52:25	57:22	5:10	42:8			
31:21	31:23	29:24	37:24	47:16	Ontario [1]	52:12	44:11	44:23	46:13	52:25	57:22	probabilistic [1]	49:17			
32:19	33:3	open [3]	59:19	60:21	open [3]	59:19	45:25	63:17	39:10	52:25	57:22	problem [6]	29:3			
35:25	36:14	60:24	operated [2]	5:7	60:24	operated [2]	5:7	18:12	operation [2]	5:18	21:18	38:23	45:7	45:15		
38:8	47:3	operation [2]	5:18	21:18	operational [1]	19:12	6:22	7:8	16:12	16:13	16:20	62:12	62:13			
53:4	53:8	operational [1]	19:12	24:2	operations [4]	11:2	24:2	62:19	pension [1]	59:23	people [21]	62:12	62:13			
62:10		17:23	61:7	61:12	operator [1]	5:10	23:8	23:9	38:9	38:11	39:3	62:12	62:13			
NRC's [6]	9:14	operator [1]	33:17	opinion [1]	33:17	opportunity [3]	10:9	43:21	45:13	option [2]	29:12	62:12	62:13			
11:24	13:7	opportunity [3]	10:9	43:21	45:13	option [2]	29:12	30:6	options [1]	29:10	oral [1]	7:12	ordinary [1]	39:17		
31:22	52:25	option [2]	29:12	30:6	options [1]	29:10	oral [1]	7:12	ordinary [1]	39:17	organization [1]	56:2	original [6]	8:22		
nuclear [19]	3:21	30:6	options [1]	29:10	oral [1]	7:12	ordinary [1]	39:17	organization [1]	56:2	original [6]	8:22	27:19	38:10	38:11	
4:3	5:3	48:16	49:13	otherwise [1]	44:9	ought [1]	31:4	ourselves [1]	16:24	outside [1]	5:24	overlooked [1]	64:15	own [4]	38:6	44:21
5:21	6:5	otherwise [1]	44:9	ought [1]	31:4	ourselves [1]	16:24	outside [1]	5:24	overlooked [1]	64:15	own [4]	38:6	44:21	44:22	47:6
16:17	16:21	ought [1]	31:4	ourselves [1]	16:24	outside [1]	5:24	overlooked [1]	64:15	own [4]	38:6	44:21	44:22	47:6	owned [1]	5:4
20:9	20:21	ourselves [1]	16:24	outside [1]	5:24	overlooked [1]	64:15	own [4]	38:6	44:21	44:22	47:6	owned [1]	5:4	ownership [1]	5:22
45:4	45:5	outside [1]	5:24	overlooked [1]	64:15	own [4]	38:6	44:21	44:22	47:6	owned [1]	5:4	ownership [1]	5:22	owns [1]	16:17
46:8	46:16	overlooked [1]	64:15	own [4]	38:6	44:21	44:22	47:6	owned [1]	5:4	ownership [1]	5:22	owns [1]	16:17	P.M. [1]	1:11
number [5]	3:10	owns [1]	16:17	P.M. [1]	1:11	package [1]	29:24	packaged [1]	29:14	page [4]	54:20	57:20				
22:22	57:20	package [1]	29:24	packaged [1]	29:14	page [4]	54:20	57:20								
61:21		packaged [1]	29:14	page [4]	54:20	57:20										
numbered [1]	65:12	page [4]	54:20	57:20												
NYSEDEC [6]	2:13	57:20	58:9													
7:9	9:24	58:9														
19:22	19:25															
NYSERDA [24]	2:7															
4:9	5:6															
6:9	6:12															
16:16	16:16															
17:5	17:9															
18:17	20:15															
21:13	21:14															
21:13	21:14															
35:2	56:8															
58:3	58:13															
NYSERDA's [3]	3:17															
3:17	6:22															
o'clock [1]	64:20															
object [1]	46:8															
objection [3]	60:12															
60:21	60:23															
obligation [5]	56:9															
56:10	56:14															
56:24																
observer [1]	42:12															
obviously [2]	15:6															
23:22																
occurring [2]	17:23															
50:16																

proposal [2] 47:24	45:20	real [3] 43:22	31:4 42:25	remedial [1] 13:14	resulted [1] 6:7	4:17 8:22 8:23
proposed [4] 14:17 47:25 49:5	7:5	really [2] 34:12	34:6	remediated [1] 11:23	Retained [4] 17:2	9:5 25:5 25:9
Protection [4] 9:23 20:4 20:11	6:17	rearrange [1] 49:12		remember [2] 40:9	18:16 18:23 21:11	scoping [14] 1:7
protest [4] 39:5 39:15 45:22	37:12	reason [2] 26:25		removal [1] 51:18	retired [1] 59:21	7:19 11:5 15:16
protesting [1] 55:7		reasonable [7] 6:14		remove [1] 44:14	Retrievability [1] 41:23	15:17 15:22 34:9
provide [5] 23:8 42:25 43:7	4:22	31:10 42:16 57:23		removed [5] 11:16	retrievable [1] 38:17	34:20 34:21 38:11
provided [1] 7:14		57:24 58:4 58:7		11:17 11:21 12:25	return [1] 39:15	38:20 48:17 63:24
provides [1] 55:11		reasonably [1] 52:5		removing [1] 30:6	review [8] 3:23	scratched [6] 40:3
public [19] 3:23 4:12 4:21		receipt [1] 4:20		repeat [2] 29:18	6:8 6:13 10:2	40:19 41:3 41:6
6:8 9:10 16:7		receive [4] 4:13		64:16	25:23 52:19 52:23	41:11 41:15
25:23 42:16 46:3		4:17 52:18 52:23		repeated [1] 64:17	53:14	screwed [1] 59:20
55:9 56:3 58:24		received [2] 36:9		replace [1] 48:12	reviews [1] 35:9	SDA [2] 19:8 20:2
58:25 59:15 60:11		50:3		reported [2] 1:21	revise [1] 3:22	seat [1] 23:11
61:8 65:8 65:19		receiving [1] 7:12		65:7	revised [7] 6:25	second [5] 10:23
publication [1] 54:17		reclassified [2] 45:22		Reporter [1] 1:21	9:4 9:11 16:3	12:2 12:5 47:23
published [1] 3:16		53:18		REPORTING [1] 1:22	16:4 25:4 25:8	54:16
purpose [4] 25:19 25:20 26:14		recognizing [1] 36:2		repository [1] 46:19	revising [1] 6:10	secondary [1] 59:12
put [5] 19:12 19:13		recommendations [2] 42:22 46:20		representative [2] 42:25 50:13	revision [3] 4:18	section [2] 30:25
45:9 45:23 46:10		record [5] 7:18		20:9 43:8	23:13 55:20	52:15
Quality [2] 10:2		16:9 40:18 49:25		representatives [2] 20:9 43:8	Rice [4] 2:13 7:8	sections [1] 50:14
quantify [1] 45:10		65:14		reprocessing [7] 5:9	63:7 63:9	see [13] 11:8 11:20
Quarry [1] 51:10		records [1] 40:22		5:11 5:17 17:22	rich [2] 38:22 39:2	15:6 29:2 29:6
queen [5] 40:14 40:18 41:10		redefined [1] 58:21		17:23 19:9 53:19	rid [1] 40:15	34:14 45:8 45:17
41:13		redoing [1] 26:17		request [1] 54:13	right [16] 7:17 10:14	46:9 46:10 47:8
queendom [2] 40:11		regard [1] 32:11		require [1] 53:13	17:20 25:12 26:12	55:23 58:10
questions [15] 7:24 13:19 13:20		regarding [2] 7:24		required [1] 43:6	30:14 34:2 44:12	seeing [1] 62:2
23:22 24:5 24:8		21:6		requirement [1] 35:2	44:14 44:23 55:16	seepage [2] 50:21
24:12 24:15 29:10		regardless [1] 46:13		requirements [2] 15:6 32:22	55:18 57:6 62:18	64:5
31:16 31:20 33:4		region [4] 43:5		requires [1] 48:3	right-of-way [1] 51:15	segmentation [4] 28:13 28:20 29:2
34:7 34:9		44:2 44:13 44:14		rescope [2] 4:4	risk [1] 49:17	29:6
quickly [1] 31:4		Register [1] 3:16		48:7	River [1] 52:12	segments [1] 42:15
Quit [2] 62:17 62:17		registered [2] 7:13		rescoping [6] 4:14	Rochester [1] 51:13	select [1] 30:16
quote [2] 47:15 47:20		7:15		27:13 27:14 37:22	role [2] 17:8 20:5	send [1] 30:14
quoted [1] 49:6		regulated [2] 19:19		48:9 53:19	roles [1] 24:14	Seneca [1] 52:6
R [1] 65:3		22:14		Research [3] 3:8	room [1] 41:14	sent [1] 40:10
radioactive [8] 5:16 19:24 37:24		regulates [1] 19:25		5:6 16:15	Route [2] 1:9	separate [7] 9:6
38:14 43:10 43:14		regulation [2] 19:23		reservoirs [1] 18:19	65:10	9:6 25:10 25:21
46:17		20:5		residents [4] 52:6	royal [1] 41:14	25:22 27:16 28:8
railroad [2] 51:15		regulations [5] 3:11		52:7 52:9 52:10	rule [6] 13:6 32:16 32:17 35:4 35:6	SEQR [1] 10:2
range [2] 6:14 18:24		62:15		respect [1] 42:20	35:8	seriously [1] 63:2
rare [2] 42:25 43:21		regulatory [10] 6:16		respective [1] 6:15	rules [5] 36:7 36:9 36:12 36:14 38:5	served [3] 42:11
Ray [8] 2:20 28:16		12:9 12:20 19:6		responded [1] 49:7	rumors [1] 40:7	Service [10] 1:22
31:16 31:17 34:18		19:8 20:7 20:10		responds [1] 49:2	run [1] 58:15	3:22 4:3 5:3
38:6 46:24 53:21		24:2 47:3 64:8		responsibilities [3] 6:15 10:4 20:7	sad [1] 39:25	5:21 6:6 16:17
re [1] 56:10		related [4] 7:4		responsibility [2] 21:14 45:19	safe [1] 30:22	16:21 20:21 46:16
re-engineering [1] 49:20		31:20 34:9 49:12		responsible [1] 20:25	safety [1] 38:7	serving [1] 60:6
reach [1] 16:9		release [15] 10:22		rest [5] 12:10 53:25	sand [1] 51:5	session [1] 10:10
reached [1] 41:19		10:23 10:24 10:25		55:4 59:24 60:17	sank [1] 41:25	set [6] 11:7 14:11
read [5] 14:14 47:6		11:22 12:4 12:16		restricted [3] 35:10	Sardinia [1] 63:15	26:7 34:3 38:5
59:14 59:15 59:22		19:23 35:11 35:11		35:11 35:13	sat [1] 41:19	57:9
		60:15 60:22		restriction [2] 13:3	says [8] 16:6 47:14 47:21 47:21 56:19 59:2 61:4 61:8	sets [1] 36:7
		released [6] 3:23		32:15	schedule [2] 15:15	setting [2] 38:7
		11:23 12:11 12:12		restrictions [8] 10:24	16:11	56:13
		13:3 13:4		10:25 11:24 12:4	school [3] 61:23	settlement [1] 47:11
		reluctantly [1] 39:8		12:16 13:5 13:6	61:24 61:24	seventeen [1] 51:11
		rely [1] 43:6		60:23	scientists [1] 40:24	seventh [1] 48:25
		remainder [1] 18:15		result [1] 47:17	scope [7] 4:15	several [1] 31:20
		remaining [2] 43:16				shall [2] 43:4 43:18
		45:21				SHARICK [3] 1:21
						65:6 65:18
						Sharp [1] 2:15
						shipping [1] 4:7

Shook [1] 41:16	solution [1] 42:17	55:3 56:12 56:19	28:22 30:7	three [4] 24:2 57:8
shoot [1] 26:9	solving [1] 45:14	58:15	summary [2] 23:17	60:20 64:8
short-term [2] 14:21	someone [1] 24:10	statesmanship [1] 43:23	49:11	through [4] 18:5
15:2	somewhere [3] 27:23	statute [1] 55:11	supplement [2] 48:13	35:20 41:20 65:13
shorthand [1] 65:7	30:15 40:8	statutory [1] 55:19	50:6	Throughout [1] 3:9
shot [1] 28:22	soon [2] 16:5 16:6	stay [4] 12:9 12:19	supplemental [1] 50:2	Tim [3] 7:8 24:2
show [2] 54:14 64:20	sorribly [1] 36:19	12:20 63:23	support [4] 21:10 21:23 22:6 22:18	63:7
shown [1] 49:6	Sorrow [1] 41:17	Steel [1] 59:21	supported [1] 35:15	TIMOTHY [1] 2:13
shutdown [1] 18:11	sorry [4] 24:17 27:12	steepening [1] 51:20	supposed [1] 60:10	tired [1] 39:6
sick [1] 38:24	54:6 63:22	stenographer [1] 37:6	Supreme [1] 57:5	today [11] 11:14
side [1] 42:10	sort [4] 12:6 12:8	stenotype [2] 65:7	surface [2] 45:17	13:10 13:16 13:20
sight [2] 44:16 45:16	12:19 26:7	stepping [1] 37:5	surficial [1] 64:6	14:5 26:15 26:16
sign [3] 7:16 53:22	sources [1] 45:2	stewardship [9] 1:5	System [1] 52:10	30:21 43:3 47:8
64:14	speak [5] 7:13	3:20 4:12 4:25	T [2] 65:3 65:3	62:2
signed [2] 37:13	7:16 42:7 54:5	8:18 15:8 28:6	table [2] 7:17 10:6	together [2] 42:15
54:4	54:13	47:25 48:5	tabs [1] 45:18	63:2
significant [1] 34:16	speaker [2] 7:14	still [3] 12:7 30:19	taking [1] 24:8	tomorrow [3] 15:16
similar [2] 10:4	SPEAKERS [1] 2:2	62:21	tank [1] 49:21	64:17 64:20
Simple [1] 40:15	Speaking [1] 49:8	stipulation [5] 47:10	tanks [2] 11:18 45:21	tonight [5] 4:16
simply [1] 48:23	special [3] 9:19	47:11 47:14 47:21	target [1] 26:9	20:9 28:5 42:7
sin [1] 44:20	10:4 39:18	stop [3] 37:15 60:8	task [5] 42:13 42:14	49:15
sincerely [1] 46:14	specific [2] 23:3	63:19	42:19 44:19 46:21	Tonight's [1] 25:24
sit [3] 23:9 23:20	54:24	stopped [1] 14:5	tasks [1] 8:12	too [5] 28:23 38:19
24:16	specifically [3] 7:4	storage [5] 11:18	taught [1] 41:10	54:20 62:11 62:20
site [59] 4:11 4:22	58:18 60:23	30:9 30:11 30:16	tear [1] 29:23	took [2] 19:16 39:7
5:4 5:9 5:14	specification [1] 19:11	38:18	technical [2] 19:10	tool [1] 14:2
5:16 10:21 10:23	speeches [2] 54:23	store [2] 29:24 46:17	61:23	topic [1] 63:23
10:24 10:25 11:14	sphere [1] 43:20	Storing [1] 31:9	technology [1] 46:9	touch [1] 45:10
11:17 11:22 12:4	splitting [1] 37:21	storm [1] 52:2	teeth [7] 38:25 39:2	towards [1] 41:20
12:10 12:12 12:16	spot [1] 45:9	straight [1] 33:21	39:24 40:2 40:6	Town [2] 17:13
13:2 13:9 14:7	springs [1] 63:19	stream [3] 50:14	40:7 41:21	17:14
15:10 16:24 17:2	Springville [1] 51:18	50:18 50:19	telephone [1] 22:22	toxic [1] 45:12
17:12 17:14 17:24	squirreled [1] 38:15	street [3] 2:15 2:20	telling [2] 60:8	toxins [1] 45:2
17:24 18:12 18:14	stability [1] 15:10	60:19	62:3	traced [1] 45:5
18:15 18:16 18:18	standards [1] 38:2	streets [1] 39:7	temporarily [1] 19:13	trail [1] 49:24
19:6 20:22 20:24	start [4] 12:17 54:22	structure [1] 19:6	tenth [1] 50:8	train [1] 49:23
21:12 21:13 21:18	63:20 64:2	studies [1] 4:5	term [3] 9:17 33:5	transcript [1] 65:12
22:2 22:8 23:2	started [3] 8:21	study [4] 3:22 8:19	51:18	transcriptionist [1] 24:21
23:4 29:13 29:15	10:11 59:22	24:4 34:22	terminate [2] 21:20	transportation [1] 15:12
30:14 35:8 35:8	starting [1] 23:19	stuff [2] 39:18 63:3	22:4	15:12
35:10 44:4 53:5	state [18] 3:7 5:5	subject [2] 9:7	termination [9] 11:25	transuranic [2] 58:18
53:9 58:11 59:3	5:5 5:22 6:12	35:3	13:5 21:23 22:6	58:23
60:12 60:15 60:16	6:18 9:24 10:2	submit [1] 43:7	32:15 35:4 35:5	treasure [4] 38:24
60:17 60:22 62:16	16:15 16:18 19:19	submitted [1] 49:9	35:7 53:4	39:10 39:14 40:8
sites [2] 30:23 44:6	20:11 22:14 24:21	submitting [1] 54:7	terms [5] 9:16 10:8	treasure's [1] 39:20
sitting [1] 57:16	53:12 58:20 61:14	subway [1] 47:7	15:15 33:18 34:19	tributary [1] 63:17
six [1] 55:12	61:16	such [6] 11:23 37:20	terrible [1] 38:23	tried [1] 30:24
sixteenth [1] 51:6	State-Licensed [7] 16:25 18:9 18:10	43:21 48:15 50:15	test [1] 35:18	troublesome [1] 37:24
sixth [1] 48:20	19:17 19:21 22:7	56:15	Thank [10] 23:5	true [2] 40:12 65:13
sixty-four [1] 65:13	22:13	Suddenly [1] 41:19	24:24 28:18 42:3	truly [2] 43:3 44:11
skipped [1] 41:24	state-owned [1] 5:8	suggest [6] 14:15	46:21 53:20 53:21	try [2] 46:25 47:6
slide [1] 19:4	statement [23] 1:6	31:11 59:10 59:13	64:11 64:12 64:22	trying [1] 29:3
slope [1] 51:14	3:18 4:10 9:14	59:14 60:7	therefore [2] 45:7	turn [3] 7:22 16:12
slowly [1] 23:24	13:7 18:6 20:19	suggesting [1] 59:17	45:10	46:5
sludge [1] 45:21	21:22 22:5 26:6	suggests [1] 45:20	third [3] 12:15 12:17	twelfth [1] 50:17
slump [1] 51:8	26:12 31:22 32:12	Sullivan [18] 2:5	48:6	twentieth [1] 52:3
slumping [2] 50:9	33:10 34:15 35:15	6:21 7:6 7:23	thirteenth [1] 50:20	twenty-fifth [1] 53:7
50:15	35:19 36:4 36:7	8:3 8:4 25:4	thought [4] 23:6	twenty-first [1] 52:13
small [1] 17:14	36:19 47:4 53:2	25:17 25:20 26:19	40:25 40:25 54:7	twenty-fourth [1] 53:3
smirking [2] 62:17	65:9	26:24 27:4 27:13	thousands [1] 44:18	twenty-second [1] 52:20
socioeconomic [1] 61:25	states [5] 52:11	27:15 27:21 27:25		
solidify [1] 5:15				

twenty-seventh [1] 53:15	35:22	West [36] 2:3	2:3
twenty-sixth [1] 53:11	valley [37] 2:6 3:4 3:20	2:6 3:4 3:20	3:20
twenty-third [1] 52:24	3:24 4:23 6:3	3:24 4:23 6:3	6:3
two [17] 4:5 9:21	8:11 16:19 17:6	8:10 16:19 17:6	17:6
12:22 23:23 28:4	17:9 17:19 18:2	17:9 17:19 18:2	18:2
28:9 29:5 29:9	19:3 19:15 20:20	19:3 19:15 20:20	20:20
29:21 29:22 33:18	21:4 21:25 23:4	21:4 21:25 23:4	23:4
37:21 43:9 48:15	26:6 32:20 32:23	26:6 32:20 32:23	32:23
48:22 54:20 55:11	37:14 38:14 43:10	37:14 38:14 43:10	43:10
type [3] 33:7 34:9	43:15 44:5 46:15	43:14 44:5 46:15	46:15
64:16	48:2 50:14 52:16	48:2 52:15 52:25	52:25
types [1] 30:16	52:25 53:16 55:10	53:16 55:9 58:17	58:17
Typically [1] 29:2	58:17 58:23 59:4	58:23 59:4	
U.S. [4] 5:12 6:16	valuable [1] 4:21	Western [9] 3:21	3:21
6:17 57:5	vaporous [1] 41:18	4:2 5:3 5:20	5:20
under [21] 6:11	various [2] 3:10	6:5 16:17 16:21	16:21
6:12 9:25 9:25	49:16	20:21 43:12	
11:2 12:8 12:19	Vaughan [16] 2:20	whole [6] 56:23	56:23
16:19 18:21 19:2	28:12 28:16 28:17	58:13 59:24 60:7	60:7
19:18 21:7 21:14	31:16 31:17 31:17	60:17 63:15	
22:8 30:25 32:20	32:4 32:18 33:14	wind [1] 61:18	
35:13 36:7 48:6	33:25 34:4 34:11	wise [1] 40:4	
61:7 61:12	35:24 46:24 46:25	wish [1] 7:18	
underground [3]	verbatim [1] 49:6	withdraw [1] 5:11	5:11
11:18 45:21 64:7	version [2] 9:18	within [2] 15:25	15:25
underneath [2] 60:11	11:13	33:10	
63:18	versus [2] 33:7	without [7] 9:2	9:2
understand [3] 34:21	58:20	10:24 11:24 12:4	12:4
36:4 39:18	viable [2] 14:8	13:5 36:2 37:8	37:8
unearth [1] 43:14	31:7	woman [1] 39:23	39:23
UNIDENTIFIED [1] 37:9	view [3] 15:14 16:11	Woodcrest [1] 1:23	1:23
unimpacted [1] 13:3	46:6	word [1] 57:25	
unique [4] 59:5	VWDP [1] 13:11	words [3] 11:12	11:12
59:8 62:15 62:15	W [1] 2:5	31:14 41:11	
United [3] 52:11	waiting [1] 54:2	worked [1] 42:14	42:14
55:3 58:15	walk [5] 11:3 13:20	workers [1] 14:22	14:22
units [3] 12:7 12:19	61:22 62:4 62:6	world [1] 62:2	62:2
51:5	warehouse [1] 18:24	write [1] 7:25	
unless [2] 60:7	waste [42] 4:15	writing [1] 47:6	47:6
61:3	5:16 9:5 11:16	written [6] 21:5	21:5
unnecessary [1] 37:11	11:16 15:11 19:25	21:8 31:6 47:7	47:7
unpleasant [1] 43:9	25:7 25:9 25:18	54:7 57:2	
unreasonable [2] 42:17 43:4	27:15 28:7 29:14	wrong [2] 29:20	29:20
Unrestricted [5] 10:21	29:24 30:11 30:16	47:25	
10:23 11:22 58:11	30:23 37:24 37:25	wrote [1] 56:5	56:5
60:12	37:25 38:14 40:17	WVDP [2] 4:7	4:7
up [33] 7:16 16:8	43:10 44:25 45:4	4:11	
17:16 19:4 23:9	45:5 45:13 45:15	www.nyserda.org [1] 23:2	
23:11 23:16 23:17	45:23 45:24 46:5	year [1] 47:20	
23:21 24:15 29:3	46:10 47:17 49:21	years [8] 39:21 43:13	43:13
29:13 29:23 33:15	53:17 53:18 58:19	43:16 44:18 62:11	62:11
37:5 39:9 40:14	58:23 61:10 61:13	62:17 63:3 63:6	63:6
41:19 53:22 54:4	61:17 63:5	York [30] 1:10	1:10
57:9 57:15 57:16	wastes [2] 4:8	1:24 2:16 2:18	2:18
59:20 60:24 61:3	43:14	2:21 2:23 3:7	3:7
61:9 61:18 62:14	wasting [2] 50:9	3:21 4:3 5:3	5:3
62:16 63:3 64:14	50:16	5:4 5:5 5:21	5:21
64:20	watch [1] 46:7	5:22 6:5 6:18	6:18
urge [1] 42:20	water [5] 52:8 52:10	7:21 9:24 16:15	16:15
used [5] 3:10 5:8	52:11 58:4 63:19	16:17 16:18 16:21	16:21
14:8 39:3 40:22	web [1] 23:2	19:19 20:11 20:21	20:21
useful [1] 14:2	week [1] 59:20	22:14 42:12 43:12	43:12
using [3] 32:5 33:6	weeks [2] 9:9	54:12 65:10	
	25:24		
	welcome [1] 36:21		
	wells [1] 16:20		